

March 17, 2009



Transcript

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Montgomery County Council

Present

Councilmember Phil Andrews, President

Councilmember Marc Elrich

Councilmember Valerie Ervin

Councilmember Nancy Floreen

Councilmember Michael Knapp

Councilmember Duchy Trachtenberg



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1 COUNCIL PRESIDENT ANDREWS:

2 Good morning, everybody. We're going to get started. I want to welcome everybody to a
3 meeting of the County Council, and we're going to begin our meeting with an invocation by
4 Rick Price from the Churches of Christ Scientist in Montgomery County, in Gaithersburg.
5 Please stand.

6
7 RICK PRICE:

8 Council President and Councilmembers, let us pray. The budget is out. If there are ever
9 any special times for prayer to the almighty for wisdom, guidance, humility, courage,
10 tenacity, and goodwill, this is it. And here's another one for today--gratitude--gratitude that
11 God gives us these qualities and humility enables us to receive them. So we ask your
12 wisdom, God, for the Council. Give them the inspiration to go forward, confident and
13 grateful that you will give them the grace and strength to get through these challenging
14 times with dignity and success. Amen.

15
16 COUNCIL PRESIDENT ANDREWS:

17 Thank you very much. We're now going to have a presentation that will recognize March
18 2009 as Public Safety Month, and Councilmember Floreen and I are going to do the
19 honors here. And we're going to be joined by --and I'll read this now-- from the Chamber
20 of Commerce, Gigi Godwin, James Whang, and Steve Robins, from the Department of
21 Corrections, Warden William Smith, from the Department of Police, Assistant Chief Drew
22 Tracy and Acting Assistant Chief Harold Allen, from the Park Police, Linus Louketis, Brian
23 Smith, and Antonio DeVaul, from the Office of the Sheriff, Chief Deputy Darren Popkin
24 and Captain Mark Bonanno, and from the Fire & Rescue, Scott Graham, and from the
25 Montgomery County Volunteer Fire and Rescue Association, Marcine Goodloe and Eric
26 Bernard. So would all of you please join us at the front?

27
28 COUNCILMEMBER FLOREEN:

29 Can we-- can we pull this off? Practicing here. Well, I wanted to say I think it's fitting
30 indeed that just before we get into the thrill of the Montgomery County budget that we take
31 a moment to recognize those who've really committed their lives to serving our
32 community. The people here represent those who rush into buildings--burning buildings,
33 respond to medical emergencies, keep our streets and parks safe, and as well as those
34 who are committed to recognizing everyone's valor at the public safety luncheon each
35 year. We can't say thank you enough to Warden William Smith, Department of
36 Corrections, Assistant Chief Scott Graham of Fire & Rescue Services, Eric Bernard,
37 Executive Director, and Marcine Goodloe, President, of the Montgomery County Volunteer
38 Fire and Rescue Association, Assistant Chief Drew Tracy and Acting Assistant Chief
39 Harold Allen from the Department of Police, Lieutenant Brian Smith, Lieutenant Linus
40 Louketis, and Lieutenant Antonio DeVaul of Montgomery County Division of the Maryland-
41 National Capital Park Police, Chief Deputy Darren Popkin, Montgomery County Sheriff's
42 Office, along with Captain Mark Bonanno, and Gigi Godwin and Steve Robins of the



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1 Montgomery County Chamber of Commerce. They have put on, for a number of years, a
2 very significant event that we'll be celebrating on Friday, where we'll all get together again,
3 hear the incredible stories of our employees' valor, and celebrate their efforts. So we are
4 grateful to the Chamber for recognizing you all and really undertaking what is a really
5 important validation of what our people do every day. Mr. President, would you like to say
6 a few words?

7
8 COUNCIL PRESIDENT ANDREWS:

9 Thank you very much, Councilmember Floreen. Absolutely, the Public Safety Awards
10 ceremony that's sponsored by the Chamber of Commerce now for--oh, how many years is
11 it now?

12
13 GIGI GODWIN:

14 35 years.

15
16 COUNCIL PRESIDENT ANDREWS:

17 35 years. OK. It is one--and Steve Robins, I think, has been the emcee for the last 8 or 9?
18 OK. It is one of the most inspiring events that any of us attend during the year because we
19 hear the tremendous stories, real-life stories, of what our public safety personnel have
20 done that have made such a difference in our community. So it is a terrific event. It gets
21 bigger every year, and rightly so, because we have so much to celebrate with the great
22 work done by the different agencies represented behind us today. So, with that, I think we
23 should have our Chamber representatives say a word about why they do this.

24
25 GIGI GODWIN:

26 I'm glad you asked that question. For 35 years, the Montgomery County Chamber of
27 Commerce has brought to you the Public Safety Awards Luncheon, and we do this
28 because 365 days of the year, these brave men and women protect us. One day of the
29 year, we say thank you, and it's our honor, and we're thrilled to be able to do that every
30 year, and again this year. Thank you.

31
32 COUNCIL PRESIDENT ANDREWS:

33 Well, thank you. You guys do a great job. The Chamber does a great job. And, Steve,
34 would you like to say a few words--a man who has not been at a loss for words the last 8
35 years, does a great--that's why they keep asking him to come back and why he does it.

36
37 STEVE ROBINS:

38 Well, that is true. Thank you very much, Phil. First I'd like to thank Councilmember Floreen
39 and President Andrews for this-- really, this great honor. This honor goes to all the people
40 in public safety. We just work hard to try to make one day very special for all the
41 individuals in public safety--not only the award winners, but everybody who goes out there
42 each and every day and puts their life on the line and sacrifices their personal lives for the



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1 benefit of Montgomery County. So it really is a pleasure to not only be here today, but to
2 do the public safety awards each and every year, and again, this is my eighth year. We
3 have a great event coming up this Friday, and we're really excited to celebrate it with
4 everybody involved. Thank you.

5
6 COUNCIL PRESIDENT ANDREWS:

7 Thank you very much.

8
9 COUNCILMEMBER FLOREEN:

10 And with that, we have a proclamation that goes through some important recognition
11 points, so I think we should read it all, and Mr. Council President, if you want to share the
12 honors with me, it would be great. It says, whereas, every day, across the nation, brave
13 men and women risk their own lives to make our lives and communities safer when they
14 respond quickly to emergencies to protect our families, neighbors, and property while
15 acting with determination, courage, and valor, and whereas the Montgomery County
16 Sheriff's Office became the first sheriff's office in the state to be accredited by the
17 Commission on Accreditation for Law Enforcement Agencies, and the Montgomery
18 County Correctional Facility, Montgomery County Detention Center, and Pre-Release
19 Center achieved 100% compliance with the Maryland Commission on Correctional
20 Standards during the last audit cycle in 2007, and whereas the Montgomery County Fire &
21 Rescue Service responds to approximately 100,000 calls per year and is staffed by 1,300
22 career uniformed professional and civilian staff and an equal number of volunteers, and
23 the Montgomery County Police Department is one of the largest in the state, with more
24 than 1,150 sworn officers and 550 civilian members, and whereas true heroism--a selfless
25 commitment to the welfare of others by keeping nearly one million residents of our county
26 safe and healthy-- is exemplified each day by Montgomery's County Department of Police,
27 the Sheriff's Office, Department of Correction & Rehabilitation, the Maryland-National
28 Capital Park Police and Fire and Rescue Services, and whereas the Montgomery County
29 Chamber of Commerce provides outstanding service to the community, exemplified by its
30 commitment to the annual Public Safety Awards Luncheon for the past 35 years, now,
31 therefore, do we, County Executive Ike Leggett and Phil Andrews, as Council President,
32 hereby proclaim the month of March 2009 as Public Safety Month in Montgomery County,
33 and we call upon government officials, business, industry leaders, educators, and all
34 residents to recognize and appreciate the hard work, determination, and selfless
35 commitment to the welfare of our community by our outstanding public safety officers.
36 Signed the 20th day of March in the year 2009--Ike Leggett and Council President
37 Andrews. So thank you very much. And thank you, all of you, and we provided each
38 service with its own proclamation. I'm not sure if anyone else would like to make some
39 comments at this point--not budgetarily related.

40
41 COUNCIL PRESIDENT ANDREWS:



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1 Let me just--because I know that it's a large group, I'm just going to ask Assistant Chief
2 Drew Tracy if he would represent the group and say a few words.

3
4 DREW TRACY:

5 Well, first of all, I'd like to thank Councilmember Floreen for this great opportunity for all of
6 us behind me today in public safety both--and fire rescue. And I'd like to thank Steve, the
7 great job the Chamber does every year, and I know this Friday, it'll be an outstanding
8 festival we'll all have, and we'll all be there, and it's great for the, you know, the
9 correctional officers, police officers, as well as fire rescue folks to get out there and be
10 rewarded for the things they do and heroism throughout the year. So on behalf of the folks
11 behind me, I'd like to thank you, President, for doing this for us today. Thank you.

12
13 COUNCIL PRESIDENT ANDREWS:

14 Thank you, Chief Tracy, and now the tough part--we all need to fit in the same picture.
15 OK? So we'll just move this out of the way. There we go. All right.

16
17 COUNCILMEMBER FLOREEN:

18 If I could just follow up, I wanted to thank my staff--Jed Millard, who put this all together.
19 His first big project, and didn't he do a good job?

20
21 COUNCIL PRESIDENT ANDREWS:

22 Great job. Good job. All right. And we all look forward to the awards ceremony this Friday
23 and recognizing our heroes in our different public safety departments. All right. We're now
24 going to move on to our General Business-- announcement, agenda, and calendar
25 changes. Miss Lauer?

26
27 LINDA LAUER:

28 Good morning. Only change is, we were able to accommodate everyone in the afternoon
29 hearings, so we are canceling the hold for this evening for overflow.

30
31 COUNCIL PRESIDENT ANDREWS:

32 Good.

33
34 LINDA LAUER:

35 One petition was received, and that is Friends of the Library, Little Falls Chapter,
36 supporting full funding for the Department of Libraries. That's it.

37
38 COUNCIL PRESIDENT ANDREWS:

39 OK. Thank you very much, and next item is action - approval of the minutes and
40 Legislative Journal of March 3, 2009. Is there a motion for approval?

41
42 COUNCILMEMBER ERVIN:



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1 Move approval.

2
3 COUNCILMEMBER KNAPP:
4 Second.

5
6 COUNCIL PRESIDENT ANDREWS:

7 That's moved--moved by Councilmember Ervin, that we approve the minutes and
8 Legislative Journal of March 3, and seconded by Councilmember Knapp. Any discussion?
9 No? All right. All those in favor of approving those minutes, please raise your hand. That is
10 Councilmember Elrich, Councilmember Trachtenberg, Councilmember Floreen, myself,
11 Councilmember Knapp, and Councilmember Ervin. It's approved 6-0. I should mention
12 that Councilmember Berliner and Councilmember Leventhal are out of the state--in fact,
13 they're out of the country at the moment, so they will be joining us either later this week or
14 the beginning of next week. But their staffs are here, and they may as well be listening,
15 so... I know that they are following what we're doing. And now we're going to move on to
16 the Consent Calendar. Is there a motion for approval?

17
18 COUNCILMEMBER TRACHTENBERG:
19 So moved.

20
21 COUNCILMEMBER KNAPP:
22 Second.

23
24 COUNCIL PRESIDENT ANDREWS:

25 All right. That's moved by Councilmember Trachtenberg and seconded by Councilmember
26 Knapp. Is there any discussion on the Consent Calendar? I don't see any. I'll just mention,
27 as I've been doing, that one of the great things about our county is we have--every week,
28 almost, we have appointments that come before us of dedicated people who are
29 volunteering, in almost all cases--in some cases, there are stipends, but very few--to
30 serve on our local boards and commissions that provide very important advice and, in
31 some cases, actually have administrative authority on various issues. And we very much
32 value the people that step forward to do this, because without it, we would not have the
33 benefit of their advice, and we have an amazing amount of talent in this county. For
34 example, when we chose an Inspector General 3 or 4 years ago, a new Inspector
35 General, two of the people sitting on the panel interviewing the Inspector General
36 candidates were sitting Federal Inspector Generals who live in Montgomery County. One
37 is now heading up--Mr. Devaney--the president's stimulus oversight effort. So we have
38 that kind of talent in this county to draw from, and we appreciate the people coming
39 forward to do so. I want to mention that today we'll be approving the confirmation of
40 County Executive appointments to the Board of Social Services, Jie Woo Kim and
41 Armando Del Toro. We will be confirming the County Executive appointment to the
42 Charter Review Commission, Michael Moshe Starkman, to the Committee on



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1 Hate/Violence, Kevin Kistler, Ahmed Ali, Jessica Marks, Amina Makhdoom, Bonnie
2 Malkin, Nkoli Akaigwe, David Vignolo, and Anne Brent, to the Commission on Health, our
3 own very able representative from the County Council, Linda McMillan, to the Community
4 Action Board, Julieta Machado-Pacanins, to the Department of Permitting Services
5 Advisory Committee, John Thomas, JD Grewell, Daniel McHugh, to the Down County
6 Recreation Advisory Board, Tchad Moore, Joy Rafey, Patricia Goldberg, and John
7 Pechilis, to the Historic Preservation Commission, William Kerwan, Sandra Heiler, and
8 Jorge Rodriguez, to the Mid-County Recreation Advisory Board, Paul Harrison, to the
9 Noise Control Advisory Board, Janice Ruggles, to the Silver Spring Citizens Advisory
10 Board, Megan Moriarty, Constance Wynn, Mary Pat Spann, or Spon, Darian Unger, and
11 Casey Anderson, to the Upcounty Recreation Advisory Board, John Cabrera, Valerie
12 Oliver, Dipali Shah, and to the Workforce Investment Board, Mark Federici. So thank you
13 to all those individuals for their willingness to serve on our boards and commissions. And
14 with that, I think we're ready to vote on the Consent Calendar. All those in favor, please
15 raise your hand. And that is, again, Councilmember Elrich, Councilmember Trachtenberg,
16 Councilmember Floreen, myself, Councilmember Knapp, and Councilmember Ervin. I saw
17 their hands. So 6-0 on the Consent Calendar, as well. We're now going to move into
18 District Council Session, and our first item there is an introduction of a zoning text
19 amendment, 9-01, Sandy Spring/Ashton Overlay Zone - prohibited uses, sponsored by
20 Councilmember Elrich, and there --the action is a resolution to establish a public hearing
21 for April 21, 2009, at 1:30. And is there any comment? I see Councilmember Elrich.

22
23 COUNCILMEMBER ELRICH:

24 Just briefly. I'm introducing this bill after collaboration with both the Planning staff at Park
25 and Planning and the Praisner office. I was going to be a cosponsor on the bill when Don
26 was getting ready to introduce it. Unfortunately, his untimely death left the bill in limbo,
27 and I'm going to go forward and introduce the bill, and the purpose is primarily to address
28 some oversights, or correct some oversights, in the overlay zone in terms of prohibited
29 uses. This is the Sandy Spring/Ashton rural village overlay, and the original list was really
30 not comprehensive, and upon further review, as they would say in the NFL, it's been
31 determined that there are other uses that ought well to be prohibited from the overlay
32 zone. So I look forward to the public hearing.

33
34 COUNCIL PRESIDENT ANDREWS:

35 Very good. Thank you very much, and so let's--is there a motion to establish a public
36 hearing?

37
38 COUNCILMEMBER TRACHTENBERG:

39 So moved.

40
41 COUNCIL PRESIDENT ANDREWS:

42 So moved by Councilmember Trachtenberg.



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1
2 COUNCILMEMBER ELRICH:
3 Second.

4
5 COUNCIL PRESIDENT ANDREWS:

6 Seconded by Councilmember Elrich. All those in favor of establishing a public hearing for
7 April 21, 2009, on Zoning Text Amendment 9-01, please raise your hand. That is
8 Councilmember Elrich, Councilmember Trachtenberg, Councilmember Floreen, myself,
9 Councilmember Knapp, and Councilmember Ervin. The public hearing is established by a
10 vote of 6-0. Our next and last item on the District Council Session is consideration of
11 Hearing Examiner's report and recommendation on Application G-849. The applicant is
12 Fifty LLC. The property is 4.9 acres, located at 10207 Darnestown Road in Rockville, and
13 the action is to rezone from R-90 to RT-8. Recommendations from Planning staff,
14 Planning Board, and Hearing Examiner are to approve, and we have before us our
15 Hearing Examiner, who heard this case, and also our zoning attorney for the Council--our
16 land use attorney--attorney on all matters of land use, Jeff Zyontz. So would either of you
17 like to comment on the matter?
18

19 MARTY GROSSMAN:

20 Thank you, Mr. President. This time, there are no requests for oral argument in this case.
21 This is G-849, and it was originally filed in February of 2006, and the Council sent it back,
22 remanded it to the Planning Board because of concern about potential noise from the
23 Public Service Training Academy, which is just to the north of the subject site. The zoning
24 request is from R-90 to RT-8 of 4.9 acres, and it's located on Darnestown Road
25 approximately 400 feet west of the intersection with Travilah Road. The schematic
26 development plan was significantly amended as a result of the remand. It still has 39
27 townhouse units, 5 of which would be moderately priced dwelling units, but the
28 arrangement within the site has been completely changed, and they're also--they've
29 proposed to add a berm which is landscaped and 8 feet tall plus a 6-foot solid wood fence
30 between the site and the Training Academy site. There was a noise--there were additional
31 noise studies done, and the recommendations were unanimous in the technical staff,
32 Planning Board, and people's counsel in favor of the approval of this site. Perhaps even
33 more important than the new noise studies is the fact that the evidence indicates that
34 there would likely be a change in the location of the Public Service Training Academy.
35 Both the Executive and the Planning Board have recommended --or I should say the
36 Planning staff, at this point--have recommended that it be resited, that it be removed from
37 the site and that it be replaced with either a residential development or some kind of
38 mixed development characterized by the County Executive as a "New Science City." And
39 whether--whichever development were to take place, it would be compatible with the
40 proposed townhouse development, but even if it were to remain as the Public Service
41 Training Academy, all the evidence really supports that it is still compatible with the site
42 which is proposed here to be rezoned. So I join in the recommendation of the technical



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1 staff, the Planning Board, and the people's counsel in recommending this rezoning be
2 approved.

3
4 COUNCIL PRESIDENT ANDREWS:

5 Thank you. All right. Any comment, Mr. Zyontz?

6
7 JEFF ZYONTZ:

8 My role here is to make sure that Council's wills are carried out. I have nothing to say on
9 the substance of the Hearing Examiner's report.

10
11 COUNCIL PRESIDENT ANDREWS:

12 OK. All right. Well, he always does a very thorough job in his reports. And I see a
13 comment or question from Councilmember Knapp.

14
15 COUNCILMEMBER KNAPP:

16 Thank you, Mr. President. I was just intrigued. I'd forgotten that we had actually remanded
17 this because of the proximity to the Public Safety Training Academy, which I thought was
18 very interesting, in light of other conversations that are ongoing. Even though Planning
19 staff and the Executive has potentially recommended that the Training Academy be
20 relocated from this site, are the changes that have been made here such that we think it
21 overcomes any potential noise issues that we were originally concerned about as it relates
22 to--if the training academy were to remain at this location?

23
24 MARTY GROSSMAN:

25 Yes. The evidence is very strong here that the noise from the Training Academy would not
26 be sufficient to create a problem with these residential units, and the addition of the
27 proposed berm, landscape berm, plus the solid wood fence would additionally protect
28 these units against noise from the Training Academy, as well as, also, there are noise
29 walls proposed for the area along the corners in one other area along Darnestown Road
30 to prevent street noise from becoming a problem.

31
32 COUNCILMEMBER KNAPP:

33 And what's the proximity--what's the distance of the closest residential unit to, I guess, the
34 main part of the campus-- of the Training Academy campus?

35
36 MARTY GROSSMAN:

37 It was--to the nearest area that I think created a problem, which was-- what's it
38 called...the...the urban search and rescue area, which was a relatively noisy area, I think
39 was about 250 feet, between 250 and 400 feet. So it was not--it was far enough and the
40 level and the number of exceedences above the 65-decibel level was small enough.
41 There were, I believe, 18 in a two-week period that could be attributed to the Public
42 Service Training Academy, and they were all lasting a second or two. So it was nothing



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1 major, and the testimony was this would be consistent with what you'd see in a normal
2 residency. Also, there had been plans to add additional units to the Public Service
3 Training Academy which had been approved by the Planning Board years ago. Many of
4 those have not been added, and according to technical staff, it's unlikely that they will be
5 added at this juncture. But they said even if they were, that would not create a sufficient
6 noise problem in this proposed residence area.

7
8 COUNCILMEMBER KNAPP:
9 And what's the size of the berm?

10
11 MARTY GROSSMAN:
12 The berm is 8 feet tall, plus it has a--it would have a 6-foot tall solid wooden fence on it.

13
14 COUNCILMEMBER KNAPP:
15 So, effectively, it is 14 feet from top to bottom.

16
17 MARTY GROSSMAN:
18 That's correct.

19
20 COUNCILMEMBER KNAPP:
21 And these units would sit above the Training Academy, right? Is it sloped, or...?

22
23 MARTY GROSSMAN:
24 No, not as I recall. The, uh--nothing significant. Now, the point is that it would --the wall
25 would protect, sufficiently protect, the outdoor noise levels here. And also, there was
26 added to the site, two access ways on either side of the proposal-- the proposed area--in
27 order to allow access. If this should become a residence to the north, there would--you
28 could have access from the residential units to the newly developed residential units in the
29 north and to Metro access or whatever was there.

30
31 COUNCILMEMBER KNAPP:
32 OK. All right. Thank you very much.

33
34 COUNCIL PRESIDENT ANDREWS:
35 Thank you for that question, Councilmember Knapp, and it's a very good question
36 because about 20 years ago, housing was approved very close to the quarry, the long-
37 existing quarry, and that caused a lot of problems in terms of the noise impacts and other
38 impacts there. So it is a good thing to head off in terms of making sure that the uses are
39 compatible before they actually go forward.

40
41 MARTY GROSSMAN:



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1 It appeared-- the record is consistent here. There isn't any evidence that it would not be
2 compatible. That's what I go on.

3
4 COUNCIL PRESIDENT ANDREWS:
5 OK. Councilmember Elrich.

6
7 COUNCILMEMBER ELRICH:

8 I thought Mike was going to ask about the sound from spaceships taking off and landing at
9 the space port at Science City. But on a more practical consideration, I guess my question
10 about the noise is a little bit different, and that's, is it going to be staged in a way that the
11 berm and the wall get built first so you determine the construction technique or the
12 materials for the townhouses, because there seemed to be a reference about townhouses
13 being able to be protected with various construction techniques to reduce the decibel
14 levels that could exceed, depending on how effective the sound walls are, the 45-deibel
15 interior-- I think it's a 45-decibel interior limit. So that's only useful if you build the berm and
16 the wall and then determine what's going through on the other side, rather than do
17 everything and then discover you've missed.

18
19 MARTY GROSSMAN:

20 Well, actually, two things are being conflated here. One is the noise measurement from
21 the north-- that is, from the Public Service Training Academy. The other is from
22 Darnestown Road. On the north, which is not road noise, it's measured, according to what
23 technical staff decided --by the noise ordinance. On the south, the noise from Darnestown
24 Road, is measured according to the standards set up by technical staffs. They had a
25 memorandum many years ago they put out in terms of transportation noise. The
26 difference is that, in the north, where it's governed by the noise ordinance, there isn't any
27 interior sound requirement for the noise ordinance. It's 65 decibels in a residential area in
28 the daytime and 55 decibels in a residential area in the evening. There's nothing about
29 interior noise. And yet, we do have testimony from the noise experts saying that it's clear
30 from the amount of noise expected from the Training Academy that it will not exceed 45
31 decibels in the interior, either in the north or in the south if it's properly protected. So the
32 testimony is pretty clear that as far as the Training Academy is concerned, the noise
33 levels would meet that standard indoors. Normal construction would lower the sound
34 indoors to within that 45-decibel area, in any event. The other thing to consider here is
35 that those two measurement systems are different in the kind of decibels they measure.
36 The north measures--that is, where the ordinance applies, it measures a kind of
37 instantaneous sound that is at whatever level it is. The measurements for the south from
38 the transportation noise are measured in a day/night average, and that's quite a different
39 measurement. In any event, the conclusion of the experts and technical staff in reviewing
40 it was that when you considered the transportation noise from the road, with the noise
41 walls that they will establish, they will lower the anticipated decibel levels to within the
42 required amounts by that measure and that if they were to need additional construction



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1 material, although the testimony was that that was-- it doubted that they would-- there are
2 about 4 units at the very corners, on the southeast and southwest corners, that might be
3 exposed to a little bit above the required decibel levels, and those would require additional
4 construction. None of the others seem to be in that kind of a problem area.

5
6 COUNCILMEMBER ELRICH:
7 OK.

8
9 COUNCIL PRESIDENT ANDREWS:
10 OK. Thank you. All right. I don't see any other comments. Is there a motion to approve the
11 hearing examiner's report and the rezoning?

12
13 COUNCILMEMBER KNAPP:
14 So moved.

15
16 COUNCIL PRESIDENT ANDREWS:
17 All right, moved by Councilmember Knapp. Second?

18
19 COUNCILMEMBER ERVIN:
20 Second.

21
22 COUNCIL PRESIDENT ANDREWS:
23 By Councilmember Ervin. OK. I don't see any other lights on, so we're ready to vote. This
24 is a roll call vote. Clerk, please call the roll.

25
26 CRYSTAL BROCKINGTON
27 Mr. Elrich.

28
29 COUNCILMEMBER ELRICH:
30 Yes.

31
32 CRYSTAL BROCKINGTON:
33 Miss Trachtenberg.

34
35 COUNCILMEMBER TRACHTENBERG:
36 Yes.

37
38 CRYSTAL BROCKINGTON:
39 Miss Floreen.

40
41 COUNCILMEMBER FLOREEN:
42 Yes.



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1
2 CRYSTAL BROCKINGTON:
3 Miss Ervin.

4
5 COUNCILMEMBER ERVIN:
6 Yes.

7
8 CRYSTAL BROCKINGTON:
9 Mr. Knapp.

10
11 COUNCILMEMBER KNAPP:
12 Yes.

13
14 CRYSTAL BROCKINGTON:
15 Mr. Andrews.

16
17 COUNCIL PRESIDENT ANDREWS:
18 Yes. The rezoning is approved 6-0. Thank you all.

19
20 MARTY GROSSMAN:
21 Thank you, Mr. President.

22
23 COUNCIL PRESIDENT ANDREWS:
24 Thank you. We're now going to move on to a worksession on a resolution to amend the
25 Ten-Year Comprehensive Solid Waste Management Plan, and before we do that, I'll turn it
26 over to Councilmember Floreen who chairs our committee that deals with all these
27 matters, but I just want to note that there has been an appointment today of a new
28 General Manager for the WSSC. And our County Executive and County--the County
29 Executive of Montgomery County, Ike Leggett, and County Executive Jack Johnson today
30 announced their recommendation. That is correct. It has not been confirmed. They have
31 announced their recommendation of David Chardavoyne to be the new Chief Executive
32 Officer/General Manager of the WSSC. And there is a press release that lists his
33 background, which looks very impressive, and we'll look forward to meeting him as we
34 consider the appointment--and as the WSSC considers the appointment. So we will look
35 forward to meeting him and discussing the many issues that face WSSC right now. But
36 this is a long time coming, the appointment--

37
38 COUNCILMEMBER FLOREEN:
39 Just a year.

40
41 COUNCIL PRESIDENT ANDREWS:



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1 About a year. That's right. Long time. I do want to say that I want to thank the good work
2 that's been done in the interim by the acting General Manager, Teresa Daniell. She's done
3 a very good job, and we appreciate that. All right. I will turn the worksession over to the
4 chair of the T&E Committee, Nancy Floreen.

5
6 COUNCILMEMBER FLOREEN:

7 Thank you very much, Mr. President. This is actually Councilmember Berliner's area of
8 responsibility, but as he's not here--he took us through the committee worksession. I'll
9 pretty much leave this to Keith to take us through, although we have the Director of the
10 Department of Environmental Protection, Mr. Hoyt, who has been very engaged in all this,
11 as well Dan Locke from the Division of Solid Waste and their staff. Would you like to make
12 some comments, Bob, before we get into this?

13
14 ROBERT HOYT:

15 Yeah. Thank you. With me at the table is Dave Locke, who's the Division Chief --Dan
16 Locke--and Bill Davidson, who is the--sorry. Can I start over? This is Dan Locke.

17
18 COUNCIL PRESIDENT ANDREWS:

19 There you go.

20
21 ROBERT HOYT:

22 His brother was good, too. And Bill Davidson, who is the Chief of the Northern Operation.
23 And I wanted to start by thanking Keith for what I thought was an excellent package and
24 helping us work through all the issues with the Ten-Year Plan. Initially--

25
26 COUNCIL PRESIDENT ANDREWS:

27 Bob, did you introduce yourself, too?

28
29 ROBERT HOYT:

30 Yeah.

31
32 COUNCIL PRESIDENT ANDREWS:

33 Good. I didn't--

34
35 ROBERT HOYT:

36 Well, I will. Bob Hoyt, Director of the Department of Environmental Protection.

37
38 COUNCILMEMBER FLOREEN:

39 Let me just say, Keith has sort of summarized the adjustments to the report on the first
40 page of his cover memo and has done a good job, as usual. We spent a lot of time in
41 committee talking about Gude Drive and the landfill issues there. You should be aware of
42 that, and staff could go into that in more detail if the Council is interested in that. We spent



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1 a lot of time discussing our recycling rate and what we can do to advance that--a long-
2 term issue for Montgomery County. And we did ask DEP to look into the issue of whether
3 or not we should get into the issue of a ban on plastic bags or something having to do with
4 that. That has become an issue throughout the country and one that we've sought advice
5 from them as to paper versus plastic, the classic challenge, and our jury is out on that so
6 far, it seems. So that's sort of where we are. And with that, I really would turn this over to
7 Keith to take the Council through any issues that Councilmembers might have about this.
8 It's--there are no big--big issues, as far as I can tell, within this report. I've summarized
9 briefly what the committee conversations were, though. So with that...

10
11 COUNCIL PRESIDENT ANDREWS:

12 OK. Well, do you want to--I think it would be worth just going through it pretty much
13 chronologically, and if Councilmembers have questions, just press the button, and we'll
14 bring you in.

15
16 KEITH LEVCHENKO:

17 All right. First, just some background. The state does require that each jurisdiction update
18 its Comprehensive Solid Waste Plans. It's supposed to be done every 3 years. We are a
19 little bit late on this one. Actually, we're also late on our Water and Sewer Plan Update,
20 which we'll be getting later this spring, hopefully. So we'll get both of those out of the way
21 this spring. As part of the Comprehensive Update, I've noted, on page two of the packet,
22 the components of the Ten-Year Solid Waste Plan and what they're supposed to include,
23 and you can see the items one, two, and 3. You've got projections of waste and
24 recyclables to be generated in the county over the next decade, the description of the
25 existing and planned services, programs, and facilities that the county has identified for
26 the collection and disposal and recycling of solid waste, and, perhaps most importantly, a
27 finding that the services, programs, and facilities are adequate to accommodate the
28 amount of waste and recyclables that we're projecting. So really, the plan is intended to
29 show that we have the appropriate capacity in place over the next 10 years--or in this
30 case, through 2016--to meet our needs. So that's the fundamental component of this plan.
31 Now, of course, the county has a very comprehensive solid waste effort going on, so it's
32 actually quite a thick document and not attached to the packet. It is available for
33 download, as noted in the packet, and Councilmembers all received it. So it is actually an
34 excellent document to review in terms of what we are doing, and even as staff, we're
35 doing so much out there that it is helpful to refresh oneself and look at the Comprehensive
36 Plan every now and then. We did hear some public hearing testimony, as Ms. Floreen
37 noted. We did hear from a representative of the Gude Landfill Concerned Citizens Group.
38 They were expressing opposition to the planned yard-trim handling facility relocation.
39 They have concerns about existing remediation efforts at the Gude Landfill site. Based on
40 that and some briefings we've previously had from DEP, the committee is aware of the
41 efforts going on, and the DEP Director has pledged to work with the community and with
42 MDE on these remediation efforts before we do move forward with the transfer of the



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1 yard-trim facility. More specifically for the Council, for this year, we do have an
2 appropriation request before it for the construction of the facility. So that's something we
3 will be taking up later this spring as part of--in conjunction with the DEP operating budget,
4 we can add to that meeting a discussion of the appropriation for that project. At that time,
5 we'll have some more information from DEP about its remediation efforts and work with
6 MDE, and the Council can decide at that time if it's comfortable either moving forward with
7 that appropriation or holding off on that appropriation until there's more information
8 available. So that's where the Council has, you know, its authority to, you know, insert its
9 opinion into this. In terms of the Comprehensive Plan, staff suggested that we add
10 language that would include some of this discussion regarding MDE and the remediation
11 efforts so that it's clear that that work is moving forward and will occur prior to the moving
12 forward of the relocation. So the plan itself is not the decision document. It's stating the
13 intent of the Council, and we would clarify that with regard to these remediation efforts.
14 But the real authority the Council has in this case would be the appropriation, which we
15 can take up later in April during our review of the DEP budget.

16
17 ROBERT HOYT:

18 We've recently decided not to go forward with that request for an appropriation. We need
19 more time to evaluate the project, so we decided not to do that. The earliest you'll see it is
20 a year from April.

21
22 COUNCIL PRESIDENT ANDREWS:

23 OK.

24
25 COUNCILMEMBER FLOREEN:

26 OK.

27
28 COUNCIL PRESIDENT ANDREWS:

29 All right. Thank you for the update.

30
31 KEITH LEVCHENKO:

32 It was within the Executive's January 15 transmittal, so based on that, as part of the May
33 CIP reconciliation, we'll make sure we adjust the appropriation accordingly.

34
35 COUNCIL PRESIDENT ANDREWS:

36 Right. And I think that's a good decision by the Executive branch to pull back on that
37 because a lot of information has come to light in the last few months as a result of the
38 initial proposal to move the school bus depot there, and the community has raised a lot of
39 legitimate questions that require answers. So I'm glad you're taking the time to research
40 that carefully.

41
42 KEITH LEVCHENKO:



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1 So what the Council will see next week as part of its Consent action will be specific
2 language changes referenced in the Consent packet that will be added to the Executive's
3 recommended update to clarify this work that's going on.

4
5 COUNCILMEMBER FLOREEN:
6 OK.

7
8 KEITH LEVCHENKO:

9 I've noted in the packet, and I think Miss Floreen also mentioned, that this is--this
10 document is more of an evolutionary document than a revolutionary document. There are
11 some interesting policy issues in it, but in general, it reiterates the major policies the
12 Council follows--or the county follows with regard to waste management. The committee
13 went over some of these major policies, including the hierarchy of preferred solid waste
14 management techniques, which is on page 4 of the packet. Basically, you start with waste
15 reduction, then recycling and reuse, and then to waste to energy from the burning of
16 combustible waste, out-of-county landfilling, and then, to the degree needed over time, in-
17 county landfilling, if cost-effective and other options are unavailable. And that policy is
18 reiterated in this recommended update as well. The--the other--some of the other major
19 policies, such as the collection subdistricts, we also discussed briefly at the committee.
20 One note, we did have an update or an--I'm sorry, an amendment to the plan last fall that
21 revised the transfer policy between the subdistricts. Subdistrict A, the county is served--all
22 single-family residents are served by trash collection by private haulers who contract with
23 the county. In Subdistrict B, single-family homes are served by contracts directly with
24 haulers, often through HOAs but also directly with residents. And within that, the Ten-Year
25 Plan used to have a transfer policy that was fairly detailed in terms of the petition process
26 and signatures required and approvals throughout the Executive branch to put those
27 transfers in place. Last fall, what was agreed by the Council was that that policy would
28 move to a regulation process, a Method 2 regulation that would require Council approval
29 for change, and the regulation was approved at the same time as the amendment, but it
30 was taken out of the Ten-Year Plan since it was seen as not being pertinent to what we
31 would want the state to review--that that really is a local function specific to the county and
32 something that is certainly of interest to us but not pertinent to the state review of our Ten-
33 Year Plan. So it's referenced in the Ten-Year Plan, but it has been --the text has been
34 removed from the Ten-Year Plan in terms of the details of that policy. So just wanted to
35 note that, as well. And of course, the Council is free to amend the Ten-Year Plan at any
36 time, as well, but it is a bit more laborious. It does have to go through approval by the
37 state, whereas the regulation process is-- can begin and end with the county. Some other
38 policies we talked about, beginning on page 6 of the packet, we--in order to moderate our,
39 or meet our capacity goals at the Resource Recovery Facility, we do have a tip fee policy
40 in place that is intended, if necessary, to be increased or decreased to try to keep us
41 within 85-92% of permit capacity in terms of flow into the facility, and the committee--at
42 the committee discussion, we discussed that over the next projection period, we are



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1 seeing that the permit capacity will start-- we will start creeping towards our permit
2 capacity. And so, if these numbers do hold--and of course, in current economic conditions,
3 we're seeing some decline in trash, but if these were to hold, we would have to reconsider
4 perhaps additional-- or consider, perhaps, tip fee increases, or, as we've also talked about
5 later in the packet, ways to increase our recycling beyond the projections shown here.
6 Both of those would obviously give us additional space within the RRF. In the short term,
7 we do have contingencies if we were to exceed our permit capacity. We do have contracts
8 in place to allow for out-of-county landfilling, and also, if the county wanted to, we could
9 also seek either a temporary or permanent increase in our permit at the RRF, which does
10 have some level of facility capacity greater than the permit capacity. However, neither of
11 those options is consistent with our long-term policies of dealing with our waste both in the
12 county and dealing with it through a combination of recycling and the permit capacity at
13 the RRF. So in the long term, our goals are to try to manage within our existing permit
14 capacity and within--with our recycling rate.

15
16 COUNCILMEMBER FLOREEN:

17 I think Mr. Elrich has a question about construction debris or... Please weigh in. Go ahead.

18
19 COUNCILMEMBER ELRICH:

20 We've had some discussions about construction debris, and I know there are some
21 programs around the country that, for example, mandate recycling and recycling permits
22 at the point of construction and the use of compartmentalized containers for construction
23 debris so that things are delivered to waste facilities already segregated into metals,
24 cardboard, woods, you know, other...other materials, which facilitates the ability to actually
25 separate and recycle. And I've seen your operation, and we went on a tour of the private
26 Clarksburg facility, as well, and it seemed like there were some opportunities for really
27 stepping up the recycling of construction debris. I had a meeting, actually, with a group of
28 small builders who are doing this on their own, and they talked about how they'd been
29 able to get rid of the dumpsters and treat their products separately. Now, they were going
30 to real extremes. They were actually reusing the wood from construction inside of new
31 construction and reusing drywalls and insulating material inside the construction they were
32 doing. But they did talk about these programs in other jurisdictions, and I'm interested in
33 where we might be going with that.

34
35 ROBERT HOYT:

36 Based on our discussions with you, we have looked at all--a range of opportunities and
37 have one that we're going to start this year that will, we hope, reduce the construction and
38 demolition debris by 40%. We'll be able to recycle approximately 40%. But, Dan, do you
39 want to go through the specifics of that?

40
41 DAN LOCKE:



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1 We signed an arrangement, or an agreement, with our out-of-county haul contractor to
2 recycle all rubble, brick, block, et cetera --everything that we take down to our DOT shed.
3 And we started that in February of this year. I just--I shared with the committee, if we
4 would get presented the same waste flow that we got in Fiscal 08 in an upcoming year,
5 with this new arrangement in place, where we had recycled 8% of the material before,
6 we'd recycle approximately 44% of it now. So that deals primarily with the bricks and the
7 blocks, the broken-up dirt, that kind of thing. We're still looking at the, you know, the
8 dimensional lumber, the drywall, that type of stuff. The way the plan addresses it is, it
9 generally encourages the use of the private infrastructure that's available. We don't have
10 in here the thought that we want to build a C&D separation facility, that type of thing, so...

11
12 COUNCILMEMBER ELRICH:

13 Right. I thought one of the interesting things we talked about was, the private facility was
14 basically burying its burnable waste, which we could use in our burn facility, and we were
15 burying our construction materials which they could use in their recycling operations. And
16 so I hope we'll continue to have some conversation with that. The other issue was that if--
17 it seems like it's worthwhile to incentivize the contractors on the tip fee-- that if you bring in
18 segregated material that we can simply push into the appropriate bins without having to
19 go through the segregation ourself, that might be worth, you know, some benefit in the tip
20 fee to encourage them to use or to presegregate the material for us.

21
22 DAN LOCKE:

23 They can bring-- for instance, cardboard now, they can come in and dump it for free--zero
24 tip. We don't pay for it, but--and just one last note with Clarksburg. We did talk at length
25 with the owners up there--we met a couple of times--about the switch of commodities, and
26 they've been lukewarm to it, at best.

27
28 COUNCILMEMBER FLOREEN:

29 Thanks.

30
31 KEITH LEVCHENKO:

32 We did--the committee did recommend some language related to C&D, which is noted on
33 page 8 of the packet. It mentions, for instance, the expected bump-up in C&D recycling
34 that we expect within the material we get, and also that DEP will continue to explore how
35 best to promote private sector recycling of C&D and other special wastes within the
36 county, all towards getting a better handle on what the county role should be here,
37 understanding that we have a general interest in increasing the recycling rate of this
38 material, either--whether we treat it or whether someone else is dealing with it.

39
40 COUNCILMEMBER FLOREEN:

41 Well, the good news is that it's continuing to increase in value, materials that are available
42 for recycling, and hopefully the public sector will continue to expand its horizons in this



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1 and we will not further burden our-- our facility in Dickerson. That's always part of the
2 challenge.

3
4 KEITH LEVCHENKO:

5 And it is one of the items we've recommended, that DEP come back to the Council by
6 February of next year. There's a couple of other items, as well. We normally have
7 quarterly updates, so that would fit within the quarterly update cycle if we have a meeting
8 in January, or it could be a written update just to update us on where we are with regard to
9 that particular component.

10
11 COUNCILMEMBER FLOREEN:

12 Yeah. I think these are good points, and I think we should make sure --target that for the
13 conversation.

14
15 COUNCIL PRESIDENT ANDREWS:

16 Got a question here. What's the latest regarding the issue of ash recycling?

17
18 DAN LOCKE:

19 We went out and did a solicitation about...it was about a year ago through the Northeast
20 Authority. We didn't get any takers at all. The market is very slow to mature. There are
21 some hurdles with regulation at the state level. We are in talks with our out-of-county haul
22 contractor right now. They have shown some interest in recycling the ash and also pulling
23 the non-ferrous out of it. We're trying. It's one of our objectives in our plan to keep after it,
24 and it's--the market hasn't grown much in the last 10 years in that regard.

25
26 COUNCIL PRESIDENT ANDREWS:

27 All right. What quantity are we talking about in terms of the amount of ash?

28
29 DAN LOCKE:

30 We landfill about 180,000 tons of ash per year.

31
32 COUNCIL PRESIDENT ANDREWS:

33 90 tons. OK. 180,000 pounds? Or tons?

34
35 DAN LOCKE:

36 Tons.

37
38 COUNCIL PRESIDENT ANDREWS:

39 Tons. All right. That's a lot.

40
41 DAN LOCKE:

42 About 30% of our burn. So it's on our goal list. We keep after it, but it's slow going.



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1
2 ROBERT HOYT:

3 We're trying to reduce the amount of landfilling we do. That's one of our performance
4 measures, and if we could find a market for ash, we would put a real dent in it that, so it's
5 one of our priorities.

6
7 COUNCILMEMBER FLOREEN:

8 I have to comment on that. I was out in California a couple of weeks ago, and at their
9 science museum in San Francisco, they apparently have materials that--some cement
10 material that includes recycled fly ash in the actual structure, so maybe that's the cement
11 of the future, or concrete, or whatever it is.

12
13 COUNCIL PRESIDENT ANDREWS:

14 OK. Thanks.

15
16 KEITH LEVCHENKO:

17 Moving on, the committee also discussed the county recycling goal. As you probably
18 remember, the recycling goal currently stands at 50% of municipal solid waste by the end
19 of 2010, which-- that date is fast approaching. I have noted on page 9 of the packet--

20
21 COUNCIL PRESIDENT ANDREWS:

22 Councilmember Knapp has a question going back one item.

23
24 COUNCILMEMBER KNAPP:

25 I did.

26
27 COUNCIL PRESIDENT ANDREWS:

28 OK.

29
30 COUNCILMEMBER KNAPP:

31 I apologize. No, I wanted to go back and just a quick question on Site 2

32
33 KEITH LEVCHENKO:

34 Oh, OK.

35
36 COUNCILMEMBER KNAPP:

37 For obvious reasons.

38
39 KEITH LEVCHENKO:

40 Yeah. With--in relation to the yard-trim operation issue at Gude, there was--some of the
41 concerned citizens group represented, as mentioned, if there is to be a transfer of the
42 yard-trim facilities, they suggested consideration of Site 2, which is a future landfill site in



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1 the upcounty near the compost facility and the RRF that could be utilized for that.
2 However, we've also heard from other folks concerned about that suggestion, and all I
3 note in the packet is, I think we need to resolve the issues at Gude Drive first before we
4 consider any alternative locations for the yard-trim facility.

5
6 COUNCILMEMBER KNAPP:

7 My question is, I just received an e-mail from folks at the Facilities Implementation Group,
8 that I understand the permit for Site 2 expires, or has to be renewed, this year, and so that
9 always raises concerns as to recognizing that it's something that kind of has to happen
10 more pro forma, but if we're not necessarily intending to use it, then why do you use the
11 permit, and so are there any--are we anticipating any modifications in the discussion as
12 the permitting process goes forward? Is it--are we expecting to do the exact same thing
13 that we've currently got it permitted for now? So that the people who are watching this
14 closely don't get all up in arms because we're-- even because we have to make a
15 modification because of any state requirements or anything like that, or it's status quo?

16
17 KEITH LEVCHENKO:

18 Status quo.

19
20 COUNCILMEMBER KNAPP:

21 OK.

22
23 KEITH LEVCHENKO:

24 That's what our plan is.

25
26 COUNCILMEMBER KNAPP:

27 OK. And then the other thing I had, which kind of gets back into the out-of-county refuse...
28 Our neighbors to the north in Frederick County are having a long and heated debate as to
29 what they do with their trash, and I'm just curious as to whether or not they have reached
30 out to us or you've reached out to them in the course of any conversations? I know I've
31 had conversations with the County Commissioners at a couple of different levels, and I
32 just--I don't know what interactions we've had, either from guidance that we can provide
33 with the experience that we've had or any other types of conversations that may occur.

34
35 DAN LOCKE:

36 We've talked to them a couple of times. Bill Davidson has gone up to one of their hearings
37 to provide them nuts-and-bolts details. You know, things like our out-of-county haul, which
38 is extremely good price-- you don't find those prices in today's market. So we've been
39 working with them to the extent we can, if you will, and they know that we've --we're ready,
40 willing, and able to help them if we can.

41
42 COUNCILMEMBER KNAPP:



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1 OK. A lot of their Commissioners kind of--they're trying to find examples that they can at
2 least have a rational conversation about, and unfortunately this tends not to be
3 necessarily rational conversation once it becomes very public, but they're trying to at least
4 get real-world experience, so to the extent-- I appreciate your willingness to provide
5 information to them. Thanks.

6
7 KEITH LEVCHENKO:

8 This Ten-Year Plan does reiterate the ban on out-of-county refuse, so the option of
9 accepting some of their solid waste is not on the table. But there are some--perhaps some
10 contracting or partnering opportunities or just exchange of knowledge that might help.

11
12 COUNCIL PRESIDENT ANDREWS:

13 OK Thank you, Councilmember Knapp.

14
15 KEITH LEVCHENKO:

16 Getting back to the county recycling goal, which is 50% of municipal solid waste by the
17 end of 2010, which date is fast approaching, I've noted on page 9 of the packet some of
18 the major initiatives over the past several years that have been implemented to increase
19 the recycling rate. And in fact, on page 10, at the top, I do show the recycling rates by
20 category of generation --single-family, multifamily, and non-residential--and you can see
21 the projections for FY09 are at 45.4%. The modeling that was used in terms--the financial
22 modeling that was used for the budget and for the projections in the policy assumes that
23 that rate will go up to about 47% and flatten out, assuming current policies are in place.
24 So we will need to consider expansions of existing policies or new policies if we want to
25 try to get to that 50% level. And as part of that, the department is in the midst of a waste
26 composition study which will help to better identify targets of opportunity for increasing the
27 recycling rate. And they've--for now, they have utilized some existing survey data they had
28 from the previous composition study, and there's actually a very good chart attached in
29 the packet on circle page 14 which provides a snapshot of FY07 actual waste recycling by
30 material and type, and it also categorizes it by whether it's a banned material, a material
31 that's encouraged to be recycled, a material that is potentially easy to recycle versus
32 materials that are probably not likely to be recycled. And within that, you can draw some
33 general conclusions that I think are consistent with the recommendations in the Plan. For
34 instance, paper remains the single biggest volume item of municipal solid waste. It's about
35 31% of the total, according to those 07 actual numbers, and still represents the biggest
36 opportunity for increasing the recycling rate. Even though we've done a number of
37 initiatives in that area and have achieved some significant rates, even within the paper
38 recycling, that can definitely be part of the solution to get to the 50%, if we can increase
39 that. Also, there are--if we could ramp up even the areas which involve banned items
40 already, that could also contribute to the recycling goal. We're right now recycling about
41 63% of items that are banned. If that rate, for instance, were to be able to be increased to
42 about 74%, that would get us to the 50% goal, as well. In terms of areas--items that are



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1 encouraged to be recycled, that makes up about 8% of the waste stream, and we're
2 recycling about half of that. Some ramp-up in that area may be possible, and it also may
3 be useful if we were to consider moving some of those "encouraged items" to the "banned
4 items" category. There might be some gain we could get there. And then also, I note at
5 the bottom, food waste is a significant portion of the waste stream--about 9.3%-- and
6 currently, virtually none of that is diverted from the waste stream. And that's a difficult
7 category of item to deal with, requiring some significant collection issues and disposal and
8 facility locations and things like that, and the committee did talk about the difficulty of
9 capturing that, but if that area could be--if some aspect of that could be dealt with, that
10 would also go a long way towards improving our recycling rate. So those are the general
11 categories, and those are all referenced in the Plan, and there's some discussion-- staff
12 has noted that with regard to achieving our 50% recycling rate, I am recommending that
13 we revisit the issue by February of next year, once we have the waste composition study,
14 the new study, in place, and DEP has had a chance to review that data and consider
15 some of these policy issues--first, whether that 50% rate is still going to be achievable,
16 and if so, what we'd have to do in order to get there over that next year, and then also,
17 more importantly, I think, what we're looking at doing over the next several years to try to
18 permanently ramp up our rate, certainly-- if for no other reason than to ensure that we
19 have sufficient capacity at the RRF.

20
21 COUNCIL PRESIDENT ANDREWS:

22 OK. Madam Chair, Councilmember Ervin has a question.

23
24 COUNCILMEMBER ERVIN:

25 Yes. Thank you very much. I wanted to ask a question on food waste, and is there any
26 way to know where it's coming from? The reason I'm asking is I'm curious about
27 multifamily housing units, especially the older ones who don't have garbage disposals and
28 other kinds of gadgets to dispose of food waste. I'm just curious if you know where it's
29 coming from.

30
31 DAN LOCKE:

32 Yeah. During our composition studies, we typically go through the disposal stream and
33 quantify by constituent according to single-family, multifamily, and commercial, so we do
34 have a feel for which sector it's coming from, and we have people familiar with the
35 properties, so we could, with some concerted effort, we could really pinpoint the big
36 disposers of food waste, I believe.

37
38 COUNCILMEMBER ERVIN:

39 Yeah, as a person who never had a garbage disposal at my house until a few years ago,
40 you tend to throw out a lot of food that you can't dispose of in that way, so when you're
41 living in an older house or an older apartment building, they don't have those kinds of



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1 gadgets. So I would be really curious to find out where it's coming from, because I think if
2 we targeted our efforts, we could really curb the amount of food waste that's out there.

3
4 ROBERT HOYT:

5 That's one of the things we will be looking at. Also, people on septic systems are
6 discouraged from putting too much garbage into their garbage disposal, as well. We're
7 looking at Seattle's programs and a couple of other programs where they have
8 composting--a composting system. So we'll be looking at that issue and letting you know.

9
10 KEITH LEVCHENKO:

11 Also, WSSC is not a big fan of garbage disposals, either, so diverting food waste has got
12 some good side benefits to it in terms of protecting our sewer infrastructure.

13
14 COUNCIL PRESIDENT ANDREWS:

15 Thank you, Councilmember Ervin.

16
17 KEITH LEVCHENKO:

18 So anyway, that's another area of update we'd like to receive. A couple of other items we
19 did talk about--more timely items, such as television recycling. With the switchover to
20 digital signals, the department has ramped up its efforts to provide drop-off for old
21 television sets, as well as some satellite days where people can more conveniently drop
22 off the sets closer to their home. At this point, we are seeing a substantial amount of
23 televisions come in, but not overwhelmingly so, so the department is still monitoring that.
24 However, we don't really know, with the switchover now delayed to June of this year--I
25 think there could be--we don't want to see a run on this where we see everything coming
26 to the transfer station all at once. So my suggestion is just that the department keep us
27 updated and just let us know if they feel they need to ramp up their efforts here and if
28 there's any help they need from us in terms of doing that. It's not entirely clear that we will
29 see a dramatic increase. There are--as you know, with the digital signaling, if you already
30 have cable or satellite, you most likely can keep the analog set that you have. You can
31 also get a converter box, and the federal government, up until recently, was providing
32 coupons, but those coupons have run out, and there's a long waiting list for coupons that
33 could become available when the old ones expire. But--so it's not entirely clear that people
34 will be en masse dumping their sets, but just in case, I think it is something we need to be
35 aware of.

36
37 COUNCILMEMBER FLOREEN:

38 We-- I'll just interject. We're very interested in that. as well as a computer recycling effort,
39 as well. A lot of hardware out there in people's basements, and some of the chemical
40 makeup of these are of concern in terms of where they can end up in the landfill. I think
41 we're just down to the yard trim. Is that right, Keith, pretty much?



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1 KEITH LEVCHENKO:

2 Yeah. We talked about the capacity issues. Here we have some good news. A couple of
3 years ago, we were exporting a substantial amount of material from--diverting it from our
4 compost facility because of the agreement we have with the community there in terms of
5 the total amount that can be disposed at the facility, which is 77,000 tons per year.
6 Because of that, the department ramped up its efforts in terms of grass cycling and yard
7 composting, and also, perhaps fortuitously, because, perhaps, of weather conditions or
8 perhaps other anomalies, the volume has gone down. It was down in 08 and it's predicted
9 to be down in 09 as well. So we're not seeing the same kind of pressure to have to send
10 out additional compost material. So that's good news, but certainly, in the long run, we still
11 are going to see capacity issues there, especially if we were to move into other areas
12 such as food waste. We have to figure out what is the best way to incorporate that
13 capacity. There's a whole slew of issues with that. So that's--as with all the other facilities,
14 the plan needs to address, in the long run, how we're going to meet our capacity needs,
15 and at the moment, the compost facility capacity seems to be working, and we do have
16 the necessary contracts in place if we exceed it. And that's--

17
18 COUNCILMEMBER FLOREEN:

19 That's it.
20

21 KEITH LEVCHENKO:

22 That's pretty much it. I will note for the committee, on circle page two, there's the second
23 page of the draft resolution, which notes the items of specific interest to the Council that
24 we would like to be updated on and the dates. For instance, the television recycling, we
25 would like to have that as part of our quarterly updates, since that is a timely item now.
26 There are several items there that we would like to be updated on prior to--or most likely
27 in January of next year, but by February of next year, in terms of the C&D issue, the long-
28 term strategies regarding recycling rate, and also the shopping bag issue--the ban or tax
29 issue. The additional composting capacity issue is also one which we talked about with
30 regard to food waste. That's a little bit further down the horizon, so I recommended that be
31 a year from February. We're about--almost two years from now, we should have, I think, a
32 better handle on that. So those are the items that we specifically talked about. Of course,
33 other items come up as they do, so I expect that list will grow. The other thing I will note is,
34 with regard to the specific text--that will be included in the packet that you'll see as part of
35 the Consent for next week, and you'll get that as part of your packet on this Friday. And
36 certainly if Councilmembers have specific text concerns or editing issues, I'll try to work
37 with Councilmembers prior to Tuesday so that we can make sure we have that hammered
38 out and don't have to edit at the table.
39

40 COUNCIL PRESIDENT ANDREWS:

41 OK.
42



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1 COUNCILMEMBER FLOREEN:

2 Committee, of course, is-- welcomes everyone's engagement in this pressing issue.

4 COUNCIL PRESIDENT ANDREWS:

5 Thank you. Thanks to the committee for their hard work on this issue over the last few
6 weeks and months, and for their continued attention to it. There were-- just looking at the
7 packet, there were--I'm just looking at essentially where it said the T&E Committee
8 concurs, and it looks like there were-- there was a mention on page 8 about updating by
9 February 1, which--that has passed, so... But on page 11, there's a recommendation
10 about the Council including in the approval resolution for the recommended plan a
11 requirement that DEP update the Council on the findings of the 2009 Waste Composition
12 Study by February 1, 2010, identify short- and long-term strategies. Then, just below that,
13 "Language noting ongoing work about the DEP update should be added to the
14 Comprehensive Plan." And then on page 13, "Council staff recommends DEP provide a
15 report to the Council on the progress of its efforts to seek additional capacity and with
16 regard to consideration of expanding composting to include food waste by no later than
17 February 2011." That's a recommendation, as well, of the T&E Committee. And then
18 finally, the Council staff recommending, on the bottom of page 14, "that language be
19 added to the Recommended Plan (in various sections referencing the closed Gude
20 landfill) to note DEP's work with Maryland Department of the Environment on a
21 remediation plan to address water quality and methane migration issues at the closed
22 Gude landfill and that construction of a yard trim facility at the Gude Drive landfill will not
23 commence until the potential environmental impacts of the yard trim facility are fully
24 investigated and concerns addressed." And another recommendation from the T&E
25 Committee. So those are the major additions, right?

27 COUNCILMEMBER FLOREEN:

28 That's right. And the action items are what, as Keith indicated, are what's shown on circle
29 two.

31 COUNCIL PRESIDENT ANDREWS:

32 Very good. OK. All right. Well--

34 COUNCILMEMBER FLOREEN:

35 I guess we're not going to take action today.

37 COUNCIL PRESIDENT ANDREWS:

38 It's a worksession today, but there seems to be agreement with all the recommendations,
39 so thank you all very much for your good work. And that is it for our morning session.
40 We're going to recess, and then the MFP committee is meeting at 12:15--actually, I should
41 say the Audit Committee is meeting at 12:15, and--no, I think it's still 12:15. I think we kept
42 it that way because, I think, Mr. Firestine can't join us before that.



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1
2 COUNCILMEMBER TRACHTENBERG:
3 Oh, OK. I thought it was at 10:45.
4
5 COUNCIL PRESIDENT ANDREWS:
6 Yeah. And so we will come back at 1:30 as Council for public hearings, including one
7 action item, and then a worksession at 2:00 on amendments to the FY09-14 Capital
8 Improvements Program - Montgomery College and transportation issues. And we do not
9 have a public hearing tonight. That hold has been canceled because we did not need to
10 carry it over. Thank you all. We'll see you at 1:30.



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TRANSCRIPT

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MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Phil Andrews, President

Councilmember Marc Elrich

Councilmember Valerie Ervin

Councilmember Nancy Floreen

Councilmember Michael Knapp

Councilmember Duchy Trachtenberg



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1 COUNCIL PRESIDENT ANDREWS:

2 Good afternoon, everybody. We're going to get started with the public hearings. Thank
3 you for your patience, and other colleagues will be joining us shortly. Our first public
4 hearing is on Subdivision Regulation Amendment 09-01, Adequate Public Facilities -
5 Validity Period that would extend the validity period for a determination of adequate public
6 facilities for certain developments and otherwise revise the validity period for certain
7 developments. Persons wishing to submit additional material for the Council's
8 consideration should do so before the close of business on Thursday, March 19, 2009. A
9 Planning, Housing, and Economic Development Committee worksession is tentatively
10 scheduled for Monday, March 23, 2009, at 2:00. Please call 240 777-7900 for information.
11 And if you're speaking--and we have 10 speakers for this public hearing--please
12 remember to introduce yourself. State your name clearly for the record. Push the button.
13 Each speaker will have three minutes, and when the yellow light goes on, you've got 30
14 seconds left. If the red light starts flashing, you've got about 30 seconds before the trap
15 door opens, so finish your sentence if you're still speaking at the time. We have two
16 panels, and please stay at the table in case there are questions from Councilmembers for
17 you. The first panel will be Diane Jones representing the County Executive, Robert Harris
18 speaking for the Commercial Builders Council, Patrick O'Neil representing Bethesda-
19 Chevy Chase Chamber of Commerce, Steve Robins speaking for DRI Development, and
20 Bill Kominers representing the Greater Silver Spring Chamber of Commerce. And we're
21 going to begin with Miss Jones.

22
23 DIANE JONES:

24 Thank you, Mr. Andrews. Is this on?

25
26 COUNCILMEMBER FLOREEN:

27 Press your button.

28
29 DIANE JONES:

30 Sorry. Newfangled stuff. This is exciting. It's beautiful. Congratulations on your new
31 hearing room.

32
33 COUNCIL PRESIDENT ANDREWS:

34 Thank you. It's very functional.

35
36 DIANE JONES:

37 That's great. Good afternoon. I am Diane Schwartz Jones, Assistant Chief Administrative
38 Officer with the office of the County Executive, and I want to thank Council President
39 Andrews for sponsoring Subdivision Regulation Amendment 09-01 on behalf of the
40 County Executive and the District Council for its timely consideration of this proposed
41 amendment to provide relief to our business and lending communities during these trying
42 economic times. SRA 09-01 proposes a simple two-year extension of the validity period



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1 for adequate public facilities determinations for development projects in the county. This
2 proposal is intended to provide relief to developers and their lenders as we make our way
3 through this current economic crisis. Over the past two years, the county has experienced
4 the severe impacts of the recession that has gripped our entire nation. The persistence
5 and duration of negative economic indicators suggest that the region's economy will
6 experience slower growth during the first half of 2009 and not reaccelerate until early
7 summer at the earliest, depending on the breadth and depth of the national recession.
8 Developers and the building industry think even that is optimistic. In meetings with a
9 cross-section of the development industry, representatives expressed their strong belief
10 that the development industry will not get moving again until 2012 and real activity will not
11 be evident until 2013. The data shared with you on March 3 during the testimony of
12 Kathleen Boucher and others on the bills that implement three other components of the
13 County Executive's 11-point Economic Assistance Plan point to a need for local
14 government action to help our residents and businesses during this difficult economic
15 time. The Executive views this particular Subdivision Regulation Amendment as a modest
16 step to allow members of the development industry and their lenders to not suffer further
17 economic pressure due to expiring adequate public facility validity periods during the
18 pendency of this economic force majeure, when very few have the means to implement
19 existing projects or pursue new projects. This is not the time to require investment of
20 additional funds to keep an approval in its status quo for a project that has no hope of
21 going forward for the next year or two. And as projects reactivate, it is not the time to
22 impose additional expense or delay to obtain an extension in order for the project to
23 proceed. Without the proposed extension of validity periods, by the time that the economy
24 turns around and loans are available to enable construction to recommence, many validity
25 periods will have expired or will be on the verge of expiring. Developers will be required to
26 either let their prior investment in their APF determinations--and in some cases,
27 infrastructure for a project--lapse, or be faced with the expense of applying for an
28 extension which may include a new traffic study. Perhaps even more compelling in order
29 to protect an existing adequate public facility determination in the midst of a stagnant
30 economy, a developer may be faced with the need to invest additional funds to complete
31 infrastructure even though it cannot otherwise proceed with its project due to the
32 unavailability of construction funds or the absence of prospective tenants.

33
34 COUNCIL PRESIDENT ANDREWS:

35 I'm going to have to stop you there, but we have the rest of the testimony, and we will read
36 it, and there may be some questions, as well.

37
38 DIANE JONES:

39 OK. Thank you. The only other thing I would like to just mention is that we very much
40 support--we've been collaborating with the development industry and with Park and
41 Planning. There are some amendments that have been proposed, and we are very
42 supportive of those amendments.



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1
2 COUNCIL PRESIDENT ANDREWS:

3 OK. Thank you. Our next speaker is Mr. Harris.
4

5 ROBERT HARRIS:

6 Good afternoon. For the record, I'm Bob Harris of Holland & Knight. I'm speaking on
7 behalf of the Commercial Builders Council. I'm actually signed up later, as well, on behalf
8 of the Chamber --Montgomery County Chamber. I'll condense my remarks into one
9 speaking moment now, if I may.
10

11 COUNCIL PRESIDENT ANDREWS:

12 Good.
13

14 ROBERT HARRIS:

15 We support the amendment with--or the legislation with the revisions that are
16 recommended by Park and Planning. The real-estate industry, as I think each of you
17 knows, is a very important part of the county economy. It obviously provide homes for
18 people, places to work, and facilities for us to meet our educational, our recreational, and
19 our shopping needs, which is not to mention the many jobs that are directly involved in
20 development and the taxes that are paid for it. So we appreciate your interest in making
21 sure that this economy can return to an active component of the county. We need help
22 now more than ever, and when I spoke to you at the hearing on March 3, many of you
23 were openly supportive of that notion. Councilmember Floreen particularly asked us to get
24 back to you with some ideas, and I am working on a list, so do expect something. I
25 appreciate that opportunity. We want to thank Mr. Leggett for initially responding to the
26 industry request for assistance in terms of the APFO and preliminary plan for validity
27 extension, and then for working with us after that to refine the legislation to the point
28 where it is now being recommended by the Planning Board and for indicating their support
29 for it today. So on behalf of the Commercial Builders Council and the Montgomery County
30 Chamber of Commerce, we support that legislation as amended. Thank you.
31

32 COUNCIL PRESIDENT ANDREWS:

33 Thank you. Mr. O'Neil?
34

35 PATRICK O'NEIL:

36 Thank you, Mr. Andrews. My remarks will be brief today because there's only so many
37 different ways to say "me too" and "thank you," because we support this legislation. Today
38 I'm speaking here on behalf of the Greater Bethesda-Chevy Chase Chamber of
39 Commerce in my capacity as the Vice President of Economic Development and
40 Government Relations for the Chamber. On behalf of the Chamber, we do thank the
41 County Executive for introducing this Subdivision Regulation 09-01 through you, Mr.
42 Andrews. This is one of several measures to address the economic impact of the current



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1 national recession on our development community locally. And since the SRA 09-01 was
2 introduced, there have been several meetings--and I want you to appreciate this as a
3 Council--between a very large number of people in divergent groups, including the County
4 Executive staff, Park and Planning staff, our chamber, the Silver Spring Chamber,
5 Montgomery County Chamber, Maryland-National Capital Building Industry Association,
6 and others who are all interested in the relief that was being proposed by County
7 Executive Ike Leggett. As a result, a cooperative effort to fine-tune the legislation that was
8 introduced by him and to ensure that it responds to the development community's needs
9 without unintentionally and negatively altering other areas of the subdivision regulations --
10 the result is the version of the SRA that you have before you, I hope, that was
11 recommended by the Planning Board last Thursday. The revised SRA amendment
12 provides meaningful, very meaningful economic assistance in this very difficult time. We
13 strongly urge for the Council to approve it as soon as possible. And on behalf of the
14 Greater Bethesda-Chevy Chase Chamber of Commerce, thank you for the opportunity to
15 present our position on this important piece of legislation.

16
17 COUNCIL PRESIDENT ANDREWS:

18 OK. Thank you, Mr. O'Neil. Mr. Robins?

19
20 STEVE ROBINS:

21 Good afternoon, President Andrews and members of the County Council. My name is
22 Steve Robins. I'm an attorney with Lerch, Early & Brewer in Bethesda, Maryland. I am
23 here today testifying not only as an individual, but also on behalf of several clients that
24 have an interest in this matter. Let me first thank County Executive Ike Leggett and his
25 team for putting forth the legislation as part of his economic response package, and also
26 to you, Councilmember Andrews, for introducing the legislation. Of all the pieces of
27 legislation in the package, this is the one that, in my opinion, is most necessary in this
28 unprecedented economic environment. I also would like to thank your staff, as well as the
29 Planning Board and its staff, for evaluating the SRA, listening to many of us involved in an
30 ad hoc working group that were established, as Mr. O'Neil mentioned, to address the
31 legislation--excuse me--and coming up with a workable SRA, which is the amendment
32 that's attached to the Planning Board's testimony, that really does provide meaningful
33 relief. The legislation that was reviewed by the Planning Board just last week is technically
34 sound and does what it is intended to do. It is a reasonable measure to provide some
35 relief to those individuals that have valid preliminary plans and adequate public facilities
36 determinations, but may not be able to finish the land-use processes or move forward with
37 construction during these difficult economic times. The legislation preserves and protects
38 those approvals while we all weather the storm. Hopefully, the legislation also will help
39 stimulate activity and give applicants the incentives to move forward and pursue approvals
40 knowing that they will have a little bit of additional time during this period. I know we are all
41 trying to think of ways to improve the economic situation here in the county during these
42 difficult times. While this particular piece of legislation may not be part of a "stimulus



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1 package" in the true sense of the word, it certainly is welcomed relief. Thank you very
2 much for your consideration and support.

3
4 COUNCIL PRESIDENT ANDREWS:

5 Thank you, Mr. Robins. Mr. Kominers.

6
7 BILL KOMINERS:

8 Good afternoon, President Andrews, members of the Council. My name is William
9 Kominers. I'm an attorney with Holland & Knight, but I'm here this afternoon speaking on
10 behalf of the Greater Silver Spring Chamber of Commerce as a member of its board and
11 as a chair of the Economic Development Committee. I'm here to speak in support of SRA
12 09-01, as modified by the Planning Board and the various staffs of the government. This
13 legislation is an important part of the Executive's Economic Assistance Plan. It makes an
14 important and proactive step to protect existing development approvals during this
15 extraordinary economic time. It helps maintain the status quo so that we can go forward
16 when the time is right. SRA 09-01 is a good idea, but almost as important is the good
17 process that was employed to bring it to you in the current form. That form represents a
18 consensus of the Executive, the Planning Board, Council staff, and the private sector to
19 reach a good result. The Chamber appreciates the efforts of each group to work with the
20 private sector and with each other to modify the legislation to assure that it accomplished
21 the intended purposes and to do so with clarity. It does what it's supposed to do, and it
22 does not do what it is not supposed to do. The amended SRA text assures that the
23 extension applies only to those APF approvals that are current and valid, but it also then
24 applies equally and fairly to all such approvals. In addition, the SRA includes the critical
25 element of a parallel extension for preliminary plan approvals. The preliminary plan
26 extension is needed to support the APF extension because recording a plat is required to
27 validate the preliminary plan approval, but applicants are unable to process the necessary
28 steps after preliminary plan approval, such as site plan review, that are conditions
29 precedent to platting. Therefore, they can't plat to protect the preliminary plan, and they
30 can't then protect the adequate public facilities approval. The SRA addresses this issue so
31 that the overall intention of protecting the approvals is effectuated. It allows the existing
32 approvals to remain in place so that when we reach recovery--hopefully in less than the
33 two years of this legislation--these projects will be able to be moved forward promptly to fill
34 the needs of the recovery. I want to compliment the Executive for proposing a solution to
35 this problem and for being flexible in the specifics and responsive to the private sector
36 concerns. Also want to compliment the staffs of all the branches for listening and putting in
37 the time in a very short, concentrated time, to revise the language in an effort to get it
38 right. I think that together, we all did get it right, and therefore, the Chamber is pleased to
39 support the revised text of the SRA as recommended by the Planning Board. Thank you.

40
41 COUNCIL PRESIDENT ANDREWS:



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1 OK. Thank you, Mr. Kominers, and thank you to everybody who testified on this panel.
2 There are no questions at this point, so we're going to move on to our second group,
3 which will be Sue Carter, representing the Brooke Grove Foundation, Tom Farasy,
4 representing the Maryland-National Capital Building Industry Association, Jim Humphreys,
5 representing the Montgomery County Civic Federation, Robert Harris, who already spoke--
6 --we already heard from Bob--and Tim Dugan, speaking for DANAC. And each of you will
7 have three minutes. The yellow light flashing--yellow light says 30 seconds to go, red light
8 flashing means your time's up and just please finish up then. Miss Carter is our first
9 speaker.

10
11 SUE CARTER:

12 Yes. Good afternoon, for the record, Sue Carter--

13
14 COUNCIL PRESIDENT ANDREWS:

15 Press your... Let's see. You need to reset. It's--it's going to reset. OK. All right. Go ahead.

16
17 SUE CARTER:

18 Good afternoon. For the record, Sue Carter, with law offices at 200B Monroe Street in
19 Rockville. I'm speaking today on behalf of the Brooke Grove Foundation. We support what
20 we understand is the intent of the Subdivision Regulation Amendment --that would be to
21 grant the automatic two-year extension to all APF validity periods for projects that have
22 current approval. However, we believe that the proposed legislation, at least in the bill that
23 was introduced before the Council-- and this may have been subsequently addressed, but
24 that it needs to be amended, or fine-tuned, perhaps, to make it clear that this automatic
25 two-year extension of APF validity applies to all projects with APF approval, including
26 those that are operating under an extension of the validity period already approved by the
27 Planning Board. As you may know, Brooke Grove is a non-profit organization that's been
28 providing care to the elderly in the Sandy Spring area for the past 60 years, and it today
29 operates pursuant to a special exception approval for a life care facility. It's in the process
30 now of implementing its fourth phase of a very long-range project, and it has received the
31 APF approval it needs that's sufficient to construct the first of the apartment buildings for
32 the elderly as part of this phase. However, it's currently operating under an extension of
33 the APF approval that will expire in 2012. And the Foundation's concern is this-- it's being
34 impacted by the same economic forces that are driving this legislation. However, it has
35 some circumstances that are a bit unique. Before a life care facility can pull a building
36 permit, it has to go through-- undergo a lengthy feasibility study and certification process
37 with the state's Office on Aging. And in the best of times, that can take 18 months, and
38 this is certainly not normal times, where they look at the funding sources and so forth.
39 After that, the foundation has to pre-sell 65% of those units and collect a 10% deposit for
40 each of the entrance fees before it can even commence construction. So the Foundation
41 is worried that even with the extension that was granted, that it won't be able to satisfy the
42 Office on Aging's requirements and presale requirements before the APF validity period



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1 expires. It's a tough situation, and they're uncertain that they'll be able to sort of,
2 essentially, beat the clock in the face of this serious economic downturn, so we would
3 urge the Council to approve the proposed legislation with language that makes it clear that
4 the two-year extension of APF approval applies across the board to all property projects
5 that have an APF approval, whether with an extension or not. Thank you.

6
7 COUNCIL PRESIDENT ANDREWS:

8 OK. Thank you. Mr. Farasy, you're next.
9

10 TOM FARASY:

11 Thank you. Good afternoon. Thank you. Good afternoon, President Andrews and
12 Councilmembers. My name is Tom Farasy, and I'm the 2000 president--2009 president of
13 the Maryland-National Capital Building Industry Association. We have over 600 members
14 today, and our members are all in the survival mode, making painful decisions, be it lay-
15 offs, furloughs, shortened work weeks, to ensure that they ride out this recession. This is
16 really the reality that frames the industry's comments today. The BIA supports the County
17 Executive's intent to provide for an automatic extension of adequate planning facility
18 approvals, per SRA 09-01, and as we have met and discussed, we proposed a number of
19 amendments and considerations that were all part of the--Park and Planning's amended
20 bill, and I'm pleased to tell you that we're here today just to say thank you, and we do
21 accept and support the bill as amended by the Park and Planning Board. This is an
22 important piece of legislation for us. It will give relief to the industry in light of today's
23 economic and financial crisis, and we can only hope that the 24 months is enough time,
24 that we'll see financing become available, job stability, and a return of consumer
25 confidence. While we anticipate a recovery, we anticipate that the president's stimulus bill
26 will have an im-- an effect also, and what we do know is that this recovery will not be
27 traditional and that there's no guaranteed trigger date. We believe SRA 09-01, as
28 amended, sends a very important message to financial and capital markets that
29 Montgomery County is a place where investment is encouraged, that its leaders
30 understand the current economics, that the county is not afraid to put measures in place
31 to protect the investments being made in the county. Our members look forward to
32 participating in the Council's worksession on this legislation, and we thank you for being
33 here today to present our views. Thank you.

34
35 COUNCIL PRESIDENT ANDREWS:

36 Thank you, Mr. Farasy. Jim Humphreys is our next speaker.
37

38 JIM HUMPHREY:

39 No "S," Phil. There's just one of me, remember? I'm Jim Humphrey, testifying on behalf of
40 the Montgomery County Civic Federation, as chair of the Planning and Land Use
41 Committee.
42



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1 COUNCILMEMBER FLOREEN:

2 You do the work of many.

3
4 JIM HUMPHREY:

5 Thank you, Nancy. The Federation did not adopt a position in support or opposition to this
6 legislation, but opted to present several points to Councilmembers for your consideration
7 during your deliberations. We included those points in our written testimony, but I'd like to
8 start by telling you I spoke yesterday with the Council Attorney Mike Fadden regarding
9 whether the Council had the authority to retroactively alter APF findings made by the
10 Board over the last 10 years, since the Planning Board is the only entity granted authority
11 in law to make an APF finding and to place conditions on that finding under the
12 parameters of the law in place at that time. Mike opined that you do, and even if you agree
13 with him, you might consider that this legislation is somewhat overreaching. In his
14 February transmittal memo, the County Executive stated that the credit market began
15 tightening 6-12 months ago. So we think it might be more appropriate to limit the
16 applicability of the legislation to those projects that received their APF finding perhaps
17 over the last two, three, maybe five years, but may find that their funding has been
18 reduced or withdrawn or delayed. In the meantime, it's not necessary, we don't think, to
19 apply this to projects--to findings from the present forward, since the Board already has
20 the authority to grant APF validity periods in excess of five years. We're concerned that
21 this legislation would make a permanent change, as introduced, in the minimum period to
22 seven years when this Council, just 16 months ago, I think, approved the five-year validity
23 period finding, and I've included Karl Moritz's testimony on behalf of the Planning Board at
24 that 2007 hearing to remind you of why the Council decided five years was appropriate.
25 We're also concerned about the provision--or the changes to section 5020-c-4, the
26 extension provision, in that it doesn't seem relevant, even, to-- solution to the economic
27 crisis, and the Board already has the authority to grant extensions. They're generally
28 granted for a period of half the original validity period. And finally, we don't--we're
29 concerned there was no economic impact analysis or fiscal impact analysis included with
30 this legislation, even though it was County Executive Leggett's suggestion. And if the
31 Council is to make full advantage of those kind of analyses, they need to be publicly
32 released in time for people who are testifying to get them, to study them, to write
33 comments, and to have their testimony vetted by their organizations if they testify on
34 behalf of a group like I do prior to the Council hearing. Thank you.

35
36 COUNCIL PRESIDENT ANDREWS:

37 OK. Thank you, Mr. Humphreys. Mr. Dugan is not here, at least at this point, so we'll read
38 whatever he submits to us. And there are no questions at this point, so thank you all very
39 much. And that concludes the public hearing. There will be a worksession on Monday,
40 March 23, at 2:00 on this item. Our next public hearing is on a supplemental appropriation
41 to the Montgomery County Public Schools' FY09 operating budget, the amount of
42 \$699,501 to retrofit school buses with emission reduction devices. Persons wishing to



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1 submit additional material for the Council's consideration should do so before the close of
2 business on Thursday, March 19, 2009, and a joint Education and Transportation,
3 Infrastructure, Energy and Environment Committee worksession is tentatively scheduled
4 for Monday, March 23, 2009, at 10:30. Please call 240 777-7900 for information. And
5 there are no speakers for this hearing. The source of the funding for this is a federal grant,
6 and since there are no speakers, that concludes this public hearing. Our next public
7 hearing is on Expedited Bill 8-09, Parks Department - Golf Courses - Leased with
8 Revenue Authority - Amendment, that would approve certain amendments to the golf
9 course lease agreement between the Maryland-National Capital Park and Planning
10 Commission and the Montgomery County Revenue Authority related to the extraction of
11 Sligo Golf Course from the lease agreement. Persons wishing to submit additional
12 material for the Council's consideration should do so before the close of business on
13 Thursday, March 19, 2009. A Planning, Housing, and Economic Development Committee
14 worksession is tentatively scheduled for Monday, March 23, 2009, at 2:00. Please call 240
15 777-7900 for information. We have two speakers signed up for this hearing, and they are
16 Michael Welsh, representing the North Hills of Sligo Creek Civic Association, and Woody
17 Brosnan, representing PREZCO. And so if each of those individuals would join us here up
18 front. Each of you will have three minutes to speak. Remember to press the button before
19 you start and introduce yourself. When the yellow light goes on, you have 30 seconds,
20 and then the red light flashing means your time is up and please finish your sentence. So
21 our first speaker is Mr. Welsh, and just press the button. There you go.

22
23 MICHAEL WELSH:

24 Thanks. On behalf of North Hills of Sligo Creek Civic Association, I thank you for the
25 opportunity to address the Council on Bill 8-09, the Montgomery County Revenue
26 Authority's request to return Sligo Creek Course--Golf Course. For geographic reference,
27 our civic association of nearly 300 homes abuts the eastern side of this course. During the
28 summer of 2008, I served on the MCRA's Sligo Creek Stakeholder Advisory Group, a
29 body of representatives from various community and governmental organizations charged
30 with finding additional and/or alternative revenue sources for the Sligo Creek Golf Course.
31 While I commend the MCRA for convening this group, I'm not certain they ever did so with
32 an open heart. The group generated numerous ideas for increasing revenue, but the
33 MCRA consistently dismissed them as inadequate compared to the potential revenue
34 generators of a driving range and/or mini golf course. When the group tried to pin the
35 MCRA down on the details of its initial plan for a driving range--for example, how many
36 stalls it would need or how long it would need to remain open--to quantify the amount of
37 revenue it would generate, the MCRA told us our mission was only to vote in favor of or in
38 opposition to the concept of a driving range, not worry about the details. As our
39 community was going to have to live with the direct impact of these changes in the form of
40 increased traffic, potential crime, light and noise pollution, to us, the devil was in the
41 details. The MCRA--here's why I think the MCRA's case is weak. The MCRA applies the
42 same \$160,000 management fee to Sligo, the smallest course of its entire system, as it



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1 does to other courses, including the 27-hole Northwest. This excessive fee also happens
2 to be larger than Sligo's 2008 loss of \$143,000. This is simply bad business. No
3 organization that hopes to remain solvent applies an equal fee to all of its offshoots
4 regardless of their size. The numbers bear this out. Sligo makes up only nine of the 81
5 holes in the MCRA's four park-leased courses, and Sligo's annual expenses are less than
6 12% of the total expenses of the four. In Fiscal Years 2007 and 2008, the total revenue of
7 the four park-owned courses under the lease have grown 14%, from 6.3 million to 7.2
8 million. In addition, the number of rounds played on these courses increased 13%. I have
9 more to say--you can read--but I'll just close and say that we would like to see the course
10 remain a golf course. Developing the course into something like a soccer plex, a
11 skateboarding park, snow-tubing facility, homes, or even, say, a high school would not be
12 in keeping with the park's mission. In closing, while we understand that the Revenue
13 Authority's mission is to generate revenue, we find it fundamentally wrong that any parks-
14 related property in the county must generate revenue in the first place. Seeing our natural
15 resources through this type of prism is the beginning of a very slippery slope. I urge the
16 Council to vote against Bill 8-09 and conduct its own independent audit on the health of
17 the public golf course system before doing anything rash. Thanks for your time.

18
19 COUNCIL PRESIDENT ANDREWS:

20 OK. Thank you, Mr. Welsh. Our final speaker is--on this public hearing is Mr. Brosnan.

21
22 WOODY BROSNAN:

23 Thank you. I'm Woody Brosnan, President of North Woodside- Montgomery Hills Citizens
24 Association, representing PREZCO, the association of Silver Spring Civic Associations.
25 Our position is that the county should continue to operate Sligo Creek as a golf course
26 and work with the North Hills of Sligo Creek Civic Association on improvements. I also
27 testify as a golfer who has played every Montgomery County course except Rattlewood
28 and who has seen firsthand the value of Sligo Creek Golf Course to Silver Spring
29 residents, and especially novice golfers, senior citizens, women, parents wanting to teach
30 the game to their children, and people who just want to walk nine holes for a modest fee
31 without having to rent a golf cart. Montgomery County also should keep Sligo Creek Golf
32 Course open to in fairness to golfers in the downcounty area and to prevent an
33 unnecessary burden to taxpayers of either overdevelopment or a degraded property. Let's
34 make clear what is happening here. The Montgomery County Revenue Authority is
35 attempting to skim the cream off the top by keeping the two most profitable courses, at
36 least from the Park and Planning Commission, Northwest and Needwood, while dumping
37 Sligo Creek back on the taxpayers during a budgetary crisis. This selfish act is
38 compounded by some anti-competitive behavior that would draw the eye of the Justice
39 Department if it was a private transaction. The Authority wants to block Park and Planning
40 from operating Sligo as a golf course. The so-called independent analysis presented by
41 the Revenue Authority reads like something I used to see when lobbyists helped their
42 clients testify before Congress. It argues that Sligo Creek, which, according to their



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1 bookkeeping, lost approximately \$168,000 in 2008, is an adverse threat to the system,
2 while Little Bennett, which lost \$326,000, could be made to turn a profit if they only sink
3 another \$1.3 million into capital improvements. Little Bennett is a fine facility, but as a
4 golfer, it comes under a lot of pressure from other courses in Frederick County and
5 Needwood. You'd have to put a lot of Clarksburgs around it to make it profitable. Little
6 Bennett is 30 miles from Colesville Road and Georgia, Needwood and Laytonsville are 17
7 miles away, Falls Road is 13 miles, Hampshire Greens is 11 miles, Northwest is 8.5 miles.
8 Sligo Creek is two miles away from the heart of Silver Spring. Besides being the only
9 county golf course within the Beltway, Sligo is an ideal course for the novice golfer. I have
10 seen the pros coming from other courses to volunteer their time to teach the First Tee
11 kids. You can't take those kids out to a busy, 18-hole golf course and clog up the course.
12 Sligo is where I taught my wife to play. It's where I see seniors who can't drive the ball 200
13 yards but who want to get some exercise and maintain their love for the game. Here's
14 what one dad who lives in Woodside Park told me. "I have two boys, age 12 and 11.
15 When I told the 12-year-old Sligo might close, he said he would be sad. The 11-year-old
16 said, where would we spend time together?" On any summer evening, I will see two or
17 three other families on the course as a mom or dad try to teach their kids how to spoil a
18 good walk, to misquote John Feinstein. Sligo is a perfect course for teaching kids--short
19 enough that they can get a par and feel success, challenging enough that if they fail, they
20 want to come back again to beat the creek or the lake. So I would just ask you to tell the
21 Revenue Department Authority that they hit one out of bounds and to go back to the tee
22 and start over.

23
24 COUNCIL PRESIDENT ANDREWS:

25 OK. Thank you very much. We have a comment or question from Councilmember
26 Floreen.

27
28 COUNCILMEMBER FLOREEN:

29 Thank you. Let me ask both you gentlemen. I've been following this community exchange
30 with interest for a long time. Is it right for me to take from what I've heard that the
31 community is pretty unalterably opposed to a--the addition of a driving range or some sort
32 of miniature golf activity there?

33
34 MICHAEL WELSH:

35 Well, I can only speak to North Hills and say that--

36
37 COUNCILMEMBER FLOREEN:

38 Well, that's fair.

39
40 MICHAEL WELSH:

41 That is only--that's an interesting question, because we weren't allowed to discuss in this
42 Advisory Group the details of those facilities--hours of operation, months of the year. What



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1 else? You know, all the particulars. And so we couldn't even put it forth to our community
2 to say, "OK, it'd be open from 9:00 to 5:00, there would be lights, there wouldn't be lights,
3 it would have this many stalls, it wouldn't have that many stalls," because the Revenue
4 Authority said it's only an up-down vote on the concept.

5
6 COUNCILMEMBER FLOREEN:

7 Well, I'm asking you. You didn't take up --I mean--

8
9 MICHAEL WELSH:

10 There wasn't anything to take up. It was a driving range. And my community said, well,
11 what are the details? And I say, well, we can't present you the details because that's not
12 open for discussion.

13
14 COUNCILMEMBER FLOREEN:

15 Is that the same view of--????? what's your view at this time?

16
17 WOODY BROSNAN:

18 PREZCO did not take a position on the specific proposal for altering Sligo Creek, so we
19 believe that the Revenue Authority--and I think, you know, if the Council was to turn this
20 down and say, "OK, try to work this out," that I think that they--it's worth another shot and
21 that, you know, perhaps some--from some input from you--all, things could work out. I
22 mean, I think that this is basically a decision that should be made by the Council and not
23 just left up to the Revenue Authority. Speaking as a golfer, I could imagine several things
24 that could be done, not including mini golf, but we-- PREZCO does not have, did not take
25 a position on the changes at the course itself. We think they should work with the local
26 community and the golfers there.

27
28 COUNCILMEMBER FLOREEN:

29 And so, Mr. Welsh, you're saying that--that you really didn't get involved. I was under the
30 impression that there had been a rather extensive conversation of operating elements and
31 items of that nature which were not well received by the community, and as a result, the
32 Revenue Authority said, well, fine.

33
34 MICHAEL WELSH:

35 Well, the Master Plan was put forward--their Master Plan, their initial plan, was put forward
36 for 70--I believe--Keith is here. I believe 70 stalls, two tiers of driving ranges stacked,
37 which would, in theory, be lit. And then the miniature golf course --it was one with the
38 possibility of a second, I believe, which would also be lighted. So that was rejected out of
39 hand by North Hills, certainly. But when we went back to the drawing board for the
40 Advisory Committee over the course of the summer of 2008, we weren't allowed to sort of
41 break down the details of how to amend that plan. So yes, 70 stalls in the middle of the



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1 golf course was rejected. So the question then was, well, what's the counter offer, and the
2 counter offer was never really fleshed out for me to present back to my community.

3
4 COUNCILMEMBER FLOREEN:

5 So it was the nature of the Master Plan that you saw, with a--you know, without any
6 further--I'm guessing the nature of the-- the number of the stalls was an issue. Was it the
7 location, or was it--

8
9 MICHAEL WELSH:

10 It was all of it. It was the package. It was 70 stalls in the middle of a golf course. You'd
11 take--you would reconfigure the entire course, which Sligo Creek--Friends of Sligo Creek
12 has strong feelings about. And you'd put the driving range in the center, and you'd
13 reconfigure the course around it. It would seem to be unorthodox, to say the least, of an
14 approach. And then the question of lights, of nets for the wildlife that live in that park and
15 how long was it going to last, how long were the hours going to run--I mean, those were
16 the fundamental things that we were--those are things we were fundamentally opposed to.
17 But then we couldn't even get into--we couldn't even get into the terms of, well, could it be
18 not lit, could you--you know, maybe we could live with an unlighted driving range with a
19 certain number of stalls. How many stalls would you need to break even or turn a profit?
20 And that wasn't really presented.

21
22 COUNCILMEMBER FLOREEN:
23 OK.

24
25 WOODY BROSNAN:

26 Let me add, just as a golfer, that's bigger than any driving range on any other of the
27 county courses. It's certainly bigger than what you would--that the people who play the
28 course would need to warm up for a round. I mean, if you want to take a look at
29 Needwood, which has a rather small driving range, they hit into a net, I don't think you're
30 allowed to use drivers--a lot of courses are like that. I mean, this was a really--this was
31 sort of an idea, we're going to run an all-day, all-night facility or something like that and
32 just--or late-into-the-night facility-- and just use it to raise revenue for the entire county. It
33 wasn't --it had nothing to do with, from my perspective, it has very little to do with
34 attracting people to play the golf course because you probably have--you would have had
35 more people hitting on the driving range than on the golf course.

36
37 COUNCILMEMBER FLOREEN:

38 Oh, might have been. You know, we'll obviously take that issue up in committee. OK.

39
40 WOODY BROSNAN:

41 Yeah. And I also would--I'd like to kind of think of what's next. The Planning Board has
42 told us, well, we would take up public hearings and we wouldn't do anything. Then you're



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1 leaving a property there for the deer and the homeless and the kids who want to have
2 parties out there, and you'd have the expense--if you wanted to alter it, you'd have the
3 expense of tearing up nine greens, 15 tees, a clubhouse--oh, I forgot the two putting
4 greens for practice. I mean--and I think if you asked most golfers in this county, they
5 would be willing to subsidize that golf course to keep--I mean, there's a lot of concern
6 these days about keeping--getting kids in the game, particularly from all groups. And...and
7 I think they'd be willing to support that. I've played at First Tee tournaments--I play every
8 year at the First Tee tournament, as does--the County Executive has been out there, and I
9 think they'd be willing to keep that course going just to keep it as a place for parents to
10 take their kids, if they were asked, even if it means the other golfers have to pay a little
11 more to subsidize it and keep it operating.

12
13 COUNCILMEMBER FLOREEN:

14 OK. Thank you.

15
16 COUNCIL PRESIDENT ANDREWS:

17 OK. Thank you very much. And there are no other questions, so the public hearing is
18 concluded, and the Planning, Housing, and Economic Development worksession, as I
19 mentioned earlier, is tentatively scheduled for Monday, March 23, at 2:00. Our next public
20 hearing is on a special appropriation to the Maryland-National Capital Park and Planning
21 Commission's FY09 capital budget and amendment to the FY09-14 Capital Improvements
22 Programs in the amount of \$150,000 for the Shady Grove Maintenance Facility. Action is
23 scheduled immediately following this hearing, and there are no speakers for this hearing,
24 so the hearing is closed. And I'll see if there is a motion on this. We actually did discuss
25 this in the committee, I believe.

26
27 COUNCILMEMBER FLOREEN:

28 Yes. We took it up.

29
30 COUNCIL PRESIDENT ANDREWS:

31 We did. And we were--I think the committee--

32
33 LINDA McMILLAN:

34 This is the recommendation of the committee.

35
36 COUNCIL PRESIDENT ANDREWS:

37 We have the committee recommendation, so actually-- we have the committee
38 recommendation, then, before us in support of this from the Public Safety and T&E--TIEE
39 Committee. So is there any discussion on this? Councilmember Knapp.

40
41 COUNCILMEMBER KNAPP:



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1 Thank you, Mr. President. The question I had is, this is for planning for the Shady Grove
2 Maintenance Facility, which I think we all recognize--EMOC, Park and Planning, school
3 bus facility, all need to get--or school maintenance facility all need to get someplace else.
4 Is this planning dollar--are these planning dollars being used specifically for relocation to a
5 specific parcel or to look at what needs to be done wherever the appropriate suitable site
6 is? And I don't know who the question is to.

7
8 LINDA McMILLAN:

9 It was not to a specific parcel. It was a--it was a pot of planning money, in both cases--
10 also on the bus depot relocation, it wasn't limited to a specific parcel.

11
12 COUNCILMEMBER KNAPP:

13 And we have these conversations a lot that until you get site specific, a lot of planning
14 money isn't necessarily that effective, so how--I think we have to do this, but, I mean, how
15 does this money get spent, and do we expect that we'll have to have additional resources
16 for this?

17
18 LINDA McMILLAN:

19 This is actually a bit less than the amount that the Executive had included in what was an
20 overall PDF for planning of several items, and because there wasn't--it wasn't tied to a
21 very specific site, the committee's decision was that some funds needed to be available to
22 allow people to look at options.

23
24 COUNCILMEMBER KNAPP:

25 OK.

26
27 LINDA McMILLAN:

28 And so the recommendation was for the \$150,000. And the paper that I passed out to you
29 is the recommendation from the Executive to approve this amount, which is required for
30 your Park and Planning action.

31
32 COUNCILMEMBER KNAPP:

33 OK. Great. Thank you.

34
35 COUNCIL PRESIDENT ANDREWS:

36 OK. Thank you, Councilmember Knapp. And the source of funds for this is GO Bonds. So-
37 -I don't see any other discussion on this. It does require six votes, and so we will--we have
38 six people here, and I will ask, then, if people are supportive of this, to raise your hands in
39 support. And that is six--Councilmember Elrich, Councilmember Trachtenberg,
40 Councilmember Floreen, myself, Councilmember Knapp, and Councilmember Ervin, and it
41 is approved 6-0. Thank you to all who worked on that. And that concludes the public
42 hearing and actions for this afternoon. We're now going to go into our worksession on



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1 amendments to the Capital Improvements Program, and we're going to begin with
2 Montgomery College and then go on to the transportation amendments. But first, the
3 college, and I'm going to turn to Councilmember Ervin, chair of the Education Committee,
4 for the committee's recommendations on this.

5
6 COUNCILMEMBER ERVIN:

7 Thank you very much. I'm waiting for the folks from Montgomery College to come to the
8 table, and I would ask that they would introduce themselves.

9
10 DAVID CAPP:

11 David Capp, Associate Vice President of College Facilities. UNKNOWN SPEAKER:
12 Dave, reach over and cut that red mike off, next to you. Thank you.

13
14 MARSHALL MOORE:

15 I'm Marshall Moore, Senior Vice President for Finance and Administration.

16
17 COUNCILMEMBER ERVIN:

18 OK. Thank you very much. The committee reviewed and approved actually only four
19 amendments to the college's CIP. I had in my notes it was five amendments, but I'll cover
20 that. Starting with page one of the packet, the Bioscience Education Center, we reduced
21 the estimate. The original cost estimate for the Bioscience Education Center was \$91.2
22 million. That estimate has been reduced by \$8.7 million. The new project total is 82.5
23 million, and 36.5 million is assumed to be funded by the state. There was no committee
24 recommendation on the road alignment at this point. We'll wait to hear--get more
25 information on that. The second item we took up in committee was the Health Sciences
26 expansion. The recommended increase of \$336,000 is due to increased construction
27 costs. The committee recommended that. The third item we took up was the planning and
28 design and construction, but we did not approve the request for \$64,000 to fund salary
29 increases for facility employees. The fourth item was the Rockville Science Center. We
30 approved \$350,000 for equipment, furniture, and fixtures. And finally, the roof
31 replacement--this project was reduced by \$400,000 after the college adjusted their roof
32 replacement schedule. So we-- the committee received and reviewed four out of five
33 amendments to the college's CIP. If Council staff wants to make any comments, please go
34 ahead.

35
36 CHARLES SHERER:

37 Yes, I would. According to my recollection--

38
39 COUNCIL PRESIDENT ANDREWS:

40 Chuck, go ahead and introduce yourself.

41
42 CHARLES SHERER:



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1 Chuck Sherer from the Council staff. The second project, the Health Sciences expansion--
2 the Executive had recommended not approving the increase, and the committee, as I
3 recall, agreed with the Executive not to approve the increase, and the committee
4 discussion was that the--well, it just wasn't necessary at this time.

5
6 COUNCILMEMBER ERVIN:

7 That's not what my notes reflect, so if I'm wrong on that, I will accept your--your... I
8 actually have this written down right here.

9
10 CHARLES SHERER:

11 The college staff was just confirming what I had said, but that doesn't mean the Council
12 can't make another decision at this time.

13
14 COUNCILMEMBER ERVIN:

15 I will accept that, Chuck. That was my mistake. So can you speak a little bit to the full
16 Council on the road alignment situation at this point?

17
18 CHARLES SHERER:

19 Well, the question is, the Bioscience Education Center includes a road to serve the entire
20 campus plus the Bioscience Center, and there's some question about what the best
21 alignment of the road is. Park and Planning--or rather, the Planning Board has one view,
22 and the college thinks it should be in a different place, and Council staff--that is, Glenn
23 Orlin--is working with both staff groups to try to decide what the best alignment should be.
24 And our intent is that there would be a further committee discussion, certainly, before the
25 budget is approved--at least we hope before the budget is approved. The committee did
26 approve the cost of the project, but just was not in a position to make a recommendation
27 on where the road should be.

28
29 COUNCIL PRESIDENT ANDREWS:

30 Madam Chair, Councilmember Knapp has a question or a comment.

31
32 COUNCILMEMBER KNAPP:

33 Thank you, Mr. President, Madam Chair. This, obviously, also shows up in the--as a part
34 of the Germantown Master Plan, and one of the directives I think we've given is to try and
35 get everybody on the same page as quickly as we can so this isn't a large dispute,
36 disputed item when it gets to the Master Plan. And so hopefully, this budget issue will help
37 accelerate that process so we're in a position to address both the budget issue in it, in the
38 course of this budget cycle, and be able to have this resolved so we can move forward
39 quickly on the part of the Master Plan.

40
41 GLENN ORLIN:



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1 Effectively, what you'd be doing is--I don't see a way around it. You'd be making this--a
2 portion of the decision on the Germantown Master Plan in April and May, rather than
3 waiting for the summer so as not to slow the Bioscience project.

4
5 COUNCILMEMBER KNAPP:
6 Yeah.

7
8 COUNCILMEMBER ERVIN:
9 OK.

10
11 COUNCIL PRESIDENT ANDREWS:
12 Thank you, Councilmember Knapp.

13
14 COUNCILMEMBER ERVIN:
15 Council President, those are our recommendations.

16
17 COUNCIL PRESIDENT ANDREWS:
18 OK. Thank you, Chair Ervin. I don't see any other comments, so the recommendations are
19 accepted without objection. OK. Well done. And our next worksession is on--thank you all.
20 Sometimes the waiting is the hardest part, right? OK.

21
22 COUNCILMEMBER ELRICH:
23 A little Tom Petty.

24
25 COUNCIL PRESIDENT ANDREWS:
26 Right. That's right. Good. You're right. That's right. All right, transportation is our next
27 subject--amendments to the FY09-14 Capital Improvements Program--and I will turn to
28 the chair of the committee, Chairwoman Floreen.

29
30 COUNCILMEMBER FLOREEN:
31 Thank you very much. There aren't too many new things in this. This is the, as you know,
32 the sort of mid-year, the off-year adjustment to the CIP for transportation. I'll just go
33 through these, and if people have questions or corrections, I'm sure they won't be shy,
34 and we've got Mr. Orlin there to keep me on track, and Mr. Holmes, director of the
35 department, and Bruce Johnston. Mr. Holmes, did you want to make any comments about
36 all this?

37
38 ARTHUR HOLMES:
39 No. I think we're --

40
41 COUNCILMEMBER FLOREEN:
42 You're good with it. Press your button there. There you go.



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1
2 ARTHUR HOLMES:

3 I'm in accord with what you have here in committee.
4

5 COUNCILMEMBER FLOREEN:

6 I think that's because we were in accord with you. Is that not the case? Really, I think
7 really the main new thing is the first item, adding streetlights along Wisteria Drive in
8 Germantown-- 43 streetlights to address community needs, and that's with a cost to be
9 spread between Fiscal Year 10 and 11.
10

11 COUNCIL PRESIDENT ANDREWS:

12 OK. Councilmember Knapp has a comment or question.
13

14 COUNCILMEMBER KNAPP:

15 Thank you, Mr. President, and I thank the committee and the Executive for this. This has
16 been a long-disputed item along this stretch of road. There was questions as to, way back
17 when this community was developed, as to whose responsibility this was, whether it was
18 the developer or the county. And as is often the case with these things, the dispute kind of
19 goes around and around and around for quite some time, and this is actually a way to
20 resolve an issue. This is, in addition to having the public safety issues as it relates to
21 lighting, it was also an area that was severely impacted by commercial parking. So we can
22 address a couple items as a result of the Council's actions this spring, so I thank the
23 committee and the Executive for their efforts in this regard.
24

25 COUNCILMEMBER FLOREEN:

26 Actually, I misspoke. It should be all in Fiscal 10. The County Executive proposed to
27 spread it out, and we said no.
28

29 COUNCIL PRESIDENT ANDREWS:

30 OK.
31

32 COUNCILMEMBER FLOREEN:

33 Next item, Burtonsville Access road. We've talked about this previously. It's slipped down
34 on the list, it's slipped up. Basically, this is a 7, almost \$8 million project to provide access
35 to businesses in the north side of Route 198 in the Burtonsville business district, kind of
36 behind the Amish market area there, where Seibel's is. It would include two 12-foot-wide
37 lanes and an eight-foot-wide parking lane, with sidewalks on both sides. They are working
38 on--half the cost is for design and land acquisition. They're in the middle--they've done the
39 design, and they're acquiring land. Over the years, it hasn't been at the top of the list. Now
40 County Executive has recommended reaccelerating it to get it started in Fiscal 10 through
41 11. Basically, we said OK, we'll see what happens--if we can keep it in, given a CIP
42 reconciliation, but we did not disagree with this recommendation at this time.



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1
2 COUNCIL PRESIDENT ANDREWS:

3 OK. No comments from other Councilmembers on that.

4
5 COUNCILMEMBER FLOREEN:

6 Next one, Father Hurley Boulevard extended and Chapman Avenue extended, these are
7 basically adjustments due to cost requirements and timing schedules and assumptions
8 with respect to impact taxes. The money isn't coming in the way we'd hoped. Cost on
9 Father Hurley has increased due to CSX's requirement about utilities and so forth, and so
10 we--they thought they'd made some savings, but in effect, the net cost of the project is up
11 by \$772,000, and in addition, the County Executive recommends adjusting the spending
12 schedule for Chapman Avenue--that's in the Rockville vicinity, North Bethesda vicinity--so
13 that \$1.9 million would be deferred from Fiscal 10 to 11. There are a variety of substitution
14 of impact taxes with GO Bonds, issues that Glenn has laid out on the top of page three,
15 and that's primarily Father Hurley. Right?

16
17 GLENN ORLIN:

18 Father Hurley and several others actually, too, but--Father Hurley, Chapman, Montrose
19 Parkway East and West, Silver Spring Transit Center, and Woodfield Road. That chart on
20 the top of page three.

21
22 COUNCILMEMBER FLOREEN:

23 So, really, the shortfall in transportation impact tax revenue is almost--about \$16 million,
24 right, over two years?

25
26 GLENN ORLIN:

27 That's right.

28
29 COUNCILMEMBER FLOREEN:

30 Yeah. So we're backfilling that.

31
32 GLENN ORLIN:

33 This--if you remember, back in early February, when you did the Spending Affordability
34 Guidelines, and one of the rationales you had--in fact, the main one for going to \$320
35 million was because you knew you had to cover some other shortfalls in impact taxes and
36 recordation taxes. And this is basically how the transportation impact tax shortfall would
37 be corrected so as not to slow up these projects. And you did a similar thing in the
38 Education Committee on school projects.

39
40 COUNCILMEMBER FLOREEN:

41 Mm-hmm.



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1 COUNCIL PRESIDENT ANDREWS:

2 OK. Councilmember Knapp.

4 COUNCILMEMBER KNAPP:

5 Thanks. Just a question as to when do we actually expect to begin construction of Father
6 Hurley?

8 GLENN ORLIN:

9 On Father Hurley, actually, right now, we are obtaining all of our permits, in the process of
10 that, and hopefully be bidding it out in the next month or two for construction probably in
11 the fall to start.

13 COUNCILMEMBER KNAPP:

14 OK. Thank you.

16 COUNCIL PRESIDENT ANDREWS:

17 Thank you, Councilmember Knapp.

19 COUNCILMEMBER FLOREEN:

20 Moving right along, we've got subdivision roads participation. The County Executive has
21 added the construction of the connector road between the Clarksburg Town Center and
22 Maryland 355. It's a two-- we're spending a lot of time up in your district here, Mr. Knapp.
23 You'll be glad to see that.--although, let me finish my comments on this. It's a two-lane
24 road with a four-foot-wide--with four-foot-wide sidewalks. One portion of this, 500,000,
25 would be funded from contribution from the Clarksburg Town Center developer, and this is
26 the nifty part or interesting part. The rest, as it's currently shown, would be funded by the
27 development district. So we'll just see about all that. But we, the committee, supported the
28 concept. Mr. Leventhal retains his opposition to development district funding.

30 GLENN ORLIN:

31 I should add, the cost for this particular addition to subdivision roads is all GO Bonds.
32 What he was--Mr. Leventhal was referring to on circle 17. You'll see the PDF, as it would
33 be changed. There is development district contributions in FY09 of \$1,540,000, which was
34 there before.

36 COUNCILMEMBER FLOREEN:

37 So that's not new.

39 GLENN ORLIN:

40 So that's not new. He's just his continuing objection to that.

42 COUNCILMEMBER FLOREEN:



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1 You know. Wishful thinking--I believe that would be the term.

2
3 COUNCIL PRESIDENT ANDREWS:

4 I heard that. Councilmember Knapp. All right. Councilmember Elrich.

5
6 COUNCILMEMBER ELRICH:

7 Just to be clear, how is this going to play out against the development districts, which I
8 have no intention of ever voting for?

9
10 GLENN ORLIN:

11 Well, again, the project still shows development district funding. Until there's development
12 district funding, there's--finance manages, is the way we deal with this. Oftentimes, all that
13 means is an advance from the General Fund, and if the development districts doesn't go
14 forward, then the General Fund is not reimbursed. There may be some other way around.
15 Jackie, you want to talk about that?

16
17 JACQUELINE CARTER:

18 I think the --

19
20 COUNCILMEMBER ELRICH:

21 Total lose-lose situation.

22
23 JACQUELINE CARTER:

24 Jacqueline Carter from OMB. I think the projects that the development district money
25 relates to are not underway currently, so the project we're talking about is strictly GO Bond
26 funded. We just left this project the way it was. We are not spending the development
27 district money.

28
29 COUNCILMEMBER ELRICH:

30 OK.

31
32 JACQUELINE CARTER:

33 We're not working on the projects for which the development district funds were
34 anticipated.

35
36 COUNCILMEMBER FLOREEN:

37 Because you don't have the development district money.

38
39 GLENN ORLIN:

40 Again, there are two ways of dealing with it-- either not doing what that \$1.54 million was
41 going to do or advancing it with General Funds and doing it and then not having it paid
42 back.



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1
2 COUNCILMEMBER FLOREEN:
3 An interesting academic conversation.

4
5 GLENN ORLIN:
6 But all the money has been appropriated, so...

7
8 COUNCILMEMBER FLOREEN:
9 Yeah. Next is White Ground Road bridge. Nothing's easy about this one, and because
10 we've had challenges working out environmental issues, naturally, the cost has gone up--
11 by \$185,000.

12
13 COUNCIL PRESIDENT ANDREWS:
14 OK. No comments yet.

15
16 COUNCILMEMBER FLOREEN:
17 Likewise, Clarksburg Road bridge--cost to bridge up \$92,000, due to increase in the price
18 of construction materials.

19
20 COUNCIL PRESIDENT ANDREWS:
21 OK.

22
23 COUNCILMEMBER FLOREEN:
24 And so it goes. East Gude Drive, westbound bridge--cost has gone up by \$160,000.

25
26 COUNCIL PRESIDENT ANDREWS:
27 No comments here.

28
29 COUNCILMEMBER FLOREEN:
30 Facility planning. Let's see here. Basically, there are some --the one thing about this in
31 particular, it eliminates the design study of the Talbot Avenue bridge in Silver Spring and
32 instead focuses on studies for the Valley Road bridge in Bethesda and Gold Mine bridge
33 near Brookeville. Randolph Road, from Rock Creek to Charles Road, addressing safety
34 issues, tight curves, and so forth--project cost, \$2.1 million. Its production schedule has
35 slipped. Highway noise abatement, they're delaying-- we're delaying some of the planning
36 funds. It shouldn't affect anything that we expected to happen, and we'll have some
37 proposed changes to the highway noise policy.

38
39 COUNCIL PRESIDENT ANDREWS:
40 OK.

41
42 COUNCILMEMBER FLOREEN:



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1 Silver Spring Green Trail--this, as you may recall, we talked about a bit with the Purple
2 Line. Basically, we're going to-- not going to call it interim anymore, and basically, we're
3 approving a version of the PDF which shows the balance of the project in Fiscal Year 14.

4
5 COUNCIL PRESIDENT ANDREWS:
6 OK.

7
8 COUNCILMEMBER FLOREEN:
9 Moved up. Bethesda Metro station, southern entrance--basically, there is a revised
10 schedule that appropriates all the design costs and shows construction in Fiscal Year 13-
11 15. We talked a lot about the timing and coordination, and everybody's well aware of it.

12
13 COUNCIL PRESIDENT ANDREWS:
14 OK.

15
16 COUNCILMEMBER FLOREEN:
17 Glenmont Metro parking garage--someday, it will actually happen. Cost, naturally, has
18 increased by 1.5 million, and it's supposed to start this fall. Right? Really, really, really, for
19 sure?

20
21 ARTHUR HOLMES:
22 I asked that same question yesterday.

23
24 COUNCILMEMBER FLOREEN:
25 Mr. Holmes, press your button there.

26
27 ARTHUR HOLMES:
28 I asked that same question yesterday and was given assurance that it would.

29
30 COUNCILMEMBER FLOREEN:
31 I say to every community I have met with, like, over three years, "It's starting this fall," and
32 it's a problem with the "this"--which fall.

33
34 ARTHUR HOLMES:
35 This fall, in my mind, is in the year 2009.

36
37 COUNCILMEMBER FLOREEN:
38 There you go. Fiscal Year 2009 --no, calendar year. Fiscal Year 2009. Write that down,
39 Glenn. We'll just schedule the ribbon-cutting, so you'll have to meet it. Let's just do that.

40
41 GLENN ORLIN:
42 Well, the ribbon-cutting will be the fall of 2010, sometime in late October.



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1
2 COUNCILMEMBER FLOREEN:

3 The groundbreaking, right.

4
5 GLENN ORLIN:

6 No, no. No, the completion.

7
8 COUNCILMEMBER FLOREEN:

9 The completion. Let's schedule both. We have a question.

10
11 COUNCIL PRESIDENT ANDREWS:

12 Councilmember Elrich has a question.

13
14 COUNCILMEMBER ELRICH:

15 I just want to say that I think this is probably one of the worst projects that's in the
16 transportation CIP, and I would hope that staff would take one word--have a one-word
17 conversation with WMATA, which indicated to me that they were questioning the need for
18 a garage this size because increased use of ridership and ride-on was reducing utilization
19 of the garage. And I've had this conversation with senior staff down at WMATA, who
20 actually question themselves whether this was the wisest thing to be doing. I'll also add
21 that if we're seriously talking about building a busway on Georgia Avenue, the purpose of
22 which is to move people from Olney down, for example, toward the Glenmont station and
23 take them off the road, you're partially obviating the need for a garage of this size. So
24 there may be the necessity for a garage there, but this garage may be the wrong size
25 garage, given both plans for transportation and what may be happening with the existing
26 ride-on service. And I hope at least you all would have a conversation with WMATA what
27 their latest numbers are. I'd like to see what the latest numbers are.

28
29 ARTHUR HOLMES:

30 We will do that, but I can tell you that that garage fills up rather early in the morning, and
31 that right now, there is a need for the garage. I understand what we're talking about in the
32 future, but as of right now, we need that, and we will try to find out what WMATA's telling
33 you because that's not the kind of information that I've been getting.

34
35 COUNCILMEMBER FLOREEN:

36 I'll just say we're getting a lot of complaints, too, from residents in the vicinity, who are
37 finding their streets clogged with parkers going to the garage.

38
39 COUNCIL PRESIDENT ANDREWS:

40 OK.

41
42 COUNCILMEMBER FLOREEN:



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1 Next two things--sidewalk and infrastructure revitalization. It was funded with current
2 revenue--4.3 million in current revenue. We found it to be debt eligible, and so we're
3 shifting it over to that side of the balance sheet.

4
5 COUNCIL PRESIDENT ANDREWS:

6 OK. Councilmember Knapp has a question or comment.

7
8 COUNCILMEMBER KNAPP:

9 Thank you, Mr. President, Madam Chair. It's kind of sidewalk-related. I just wanted to take
10 a moment to say thank you to someone. Many of us-- well, Council Vice President--
11 Council President Andrews and I were at the opening of the Germantown fire station on
12 Friday, and it's fabulous that we opened a new fire station, and I'm glad, and I thank
13 everyone for their efforts in doing so. But oftentimes in this job it's the little things, and
14 we've been talking about sidewalk connectivity, and I'm trying to make sure that we can
15 actually have a pedestrian-friendly community, and there was one segment that --where a
16 sidewalk ended that the developer was responsible for. There was also a portion of the
17 sidewalk that ran in front of the fire station that the county was responsible for, and
18 through much browbeating and many worksessions, we managed to convince everybody
19 that those two sidewalks should connect, and I talked to Mr. Johnston many, many times
20 about it, and I thank him and the team that actually made it happen for making that occur.
21 We now actually have a sidewalk that is contiguous and runs the length of the community
22 in which it abuts, and I just want to thank you very much for your efforts on that.

23
24 ARTHUR HOLMES:

25 Sir, I hope that you'll understand that there's another firehouse there, too. If you
26 remember, we've had this conversation.

27
28 COUNCILMEMBER KNAPP:

29 Yeah. So, thanks.

30
31 BRUCE JOHNSTON:

32 Mr. Knapp, thank you for your comments. I just want to mention the project manager on
33 that project really made that happen, and I have to give the credit to him. Thank you very
34 much.

35
36 COUNCIL PRESIDENT ANDREWS:

37 Who was that project manager?

38
39 BRUCE JOHNSTON:

40 Jeff.

41
42 COUNCIL PRESIDENT ANDREWS:



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1 OK.

2
3 COUNCILMEMBER FLOREEN:

4 Hooray for that project manager.

5
6 COUNCIL PRESIDENT ANDREWS:

7 Hooray. Good job. OK.

8
9 COUNCILMEMBER FLOREEN:

10 And last but not least, we've got Silver Spring traffic improvements. The one that really
11 takes the stage on this one is the intersection of Colesville and Dale Drive near Miss
12 Ervin, and you'll note there's been--Miss Ervin raised some issue with the state and the
13 county about what would be best managed there, and we found that they have eliminated
14 one of the approach lanes on Dale Drive, and they have evaluated signal timing and so
15 forth. There were some further questions about whether you had to do the whole thing,
16 and we got some answers that said we really needed to proceed with some of the project,
17 so the committee recommended approval of the revisions to the PDF on circle 39.

18
19 COUNCIL PRESIDENT ANDREWS:

20 OK. All right. Councilmember Ervin has a question.

21
22 COUNCILMEMBER ERVIN:

23 I do, thank you. I just want you to explain to me how you're going to proceed with the
24 scope of the project. My question has to do with the two Dale Drive legs of the
25 intersection, resulting in three approach lanes on each leg. Describe what that would look
26 like, if you have--oh, thank you.

27
28 BRUCE JOHNSTON:

29 Actually, we have a diagram.

30
31 COUNCILMEMBER ERVIN:

32 Oh, thank you.

33
34 COUNCILMEMBER FLOREEN:

35 They appear to be ready for you.

36
37 COUNCILMEMBER TRACHTENBERG:

38 They knew you were coming.

39
40 BRUCE JOHNSTON:

41 I'm not sure exactly what the best way would be to do this.



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1 COUNCILMEMBER FLOREEN:

2 Well, we have all this technological advance here, guys. We're prepared for--

4 BRUCE JOHNSTON:

5 Would you like me to bring it up close?

7 COUNCIL PRESIDENT ANDREWS:

8 That's good. Come on, bring it up.

10 COUNCILMEMBER FLOREEN:

11 The usual way.

13 BRUCE JOHNSTON:

14 Now I have it upside down. The west leg of the intersection, in this diagram--

16 COUNCILMEMBER FLOREEN:

17 You need to turn on the mike so they can--there you go. That's OK. That ought to work.

19 BRUCE JOHNSTON:

20 Georgia Avenue is going north and south. North is to the top of the drawing.

22 COUNCILMEMBER FLOREEN:

23 Colesville.

25 BRUCE JOHNSTON:

26 Dale Drive--

28 COUNCILMEMBER FLOREEN:

29 Colesville, you mean.

31 BRUCE JOHNSTON:

32 Right. I'm sorry. Dale Drive is running east and west, and Mrs. K's Restaurant is right here
33 in this corner. The west leg of the intersection will basically have no lane improvements,
34 no lane additions, but it will have sidewalk construction, It will extend the existing sidewalk
35 back to the next street and do a little bit of work on some driveways. Very, very little work
36 on that side. The east leg of the intersection, between Mrs. K's and their parking lot, will
37 have a retaining wall built right at the south end of the parking lot in front of Mrs. K's, and
38 from that retaining wall, there will be a sidewalk, and then there will be a new lane
39 addition. There will be a right-turn lane, exclusive right turn lane. There will be a through
40 lane, which will be aligned--which is very important--aligned with the receiving lane on the
41 west side, a left-turn lane which, again, will be shadowing the left-turn lane on the
42 opposite side, and then a receiving lane for eastbound traffic. And that will be able to be



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1 done within the right-of-way and without--we will have to close some of the parking on
2 Mrs. K's temporarily, but we will not be taking out any of their parking spaces.

3
4 COUNCILMEMBER ERVIN:

5 My question has to do with the right-turn lane at Mrs. K's. Is that right turn going to go into
6 the curb on their side? How are you going to do it?

7
8 BRUCE JOHNSTON:

9 Actually, the entrance at Mrs. K's right here, I believe, is going to be closed, and so
10 entrance into lower parking lot right here would be back off of Kingsbury Drive.

11
12 COUNCILMEMBER ERVIN:

13 Thank you.

14
15 COUNCIL PRESIDENT ANDREWS:

16 Thank you very much for the presentation, and thank you, Councilmember Ervin.

17
18 COUNCILMEMBER FLOREEN:

19 And with that, that concludes our recommendations on the Fiscal Year 09-14 Capital
20 Improvements Program.

21
22 COUNCIL PRESIDENT ANDREWS:

23 OK. Well, the committee recommendations are accepted by the Council, and that
24 concludes our worksession this afternoon. We're going to adjourn. There is no public
25 hearing tonight. We didn't need it. And we have a town hall meeting tomorrow night at
26 Kingsview Middle School, at --beginning at 8:00 for the town hall meeting, 7:30 for the
27 reception, and we look forward to seeing many members of the community there and look
28 forward to the questions we'll get. So see you then. Thank you all.